

**Virginia Office for Protection and Advocacy
Richmond, Virginia
Board Meeting Minutes
January 29, 2008**

Members Present: Brent Brown, Ray Burmester, Charles Cooper, William Fuller, Waja Grimm, Chris Harrison, Maureen Hollowell, Van Johnson, Susan Kalanges, Rita Kidd, Patricia Meyer, Elizabeth Priaulx, Lisa Ritchie

Members Absent: Dave Wilber

Guests Present: None

Staff Present: Kim Mendella, Colleen Miller, Lisa Shehi

For Portions:
Kalena Ek, Jonathan Martinis, Sophia Nelson

Call to Order, Welcome, and Introductions: Brent Brown called the meeting to order at 9:30 a.m. Mr. Brown welcomed attendees and asked for introductions.

Training:

- **EPSDT**

Kalena Ek, Staff Attorney, and Sophia Nelson, Paralegal, provided an overview training on the Early Periodic Screening Diagnosis and Treatment program including covered services and eligibility requirements. Ms. Ek and Ms. Nelson answered questions from Board members.

Mission Statement: Patricia Meyer read the Mission Statement.

Adopt Agenda: Mr. Brown requested that the Finance Committee report be heard earlier than announced on the agenda. Susan Kalanges made a MOTION to adopt the agenda as amended. Chris Harrison SECONDED the MOTION and the Board adopted the agenda unanimously.

Approval of September 24, 2007 Minutes: Mr. Brown suggested the addition of the phrase “encouraging spirit” in regards to the Board’s remembrances of the late Dink Shackelford, a former Board member. Dr. Meyer made a MOTION to approve the minutes as amended. Ray Burmester SECONDED the MOTION and the Board unanimously approved the amended minutes.

Public Comment : No public comment was offered.

**Finance and Resource
Development Committee:**

- **Financial Report**

Bill Fuller, Chair, shared that the financial reports were reviewed by the Committee on January 28, 2008. Dr. Fuller shared that all funding from the HUD grant has been expended. Dr. Fuller noted that the Finance and Resource Development Committee endorsed the actions taken by the Executive Committee to increase per diem rates in order to bring VOPA's rates in line with the state rates. Further, Dr. Fuller stated that the state mileage reimbursement rate was increased to .505 cents per mile by the Department of Accounts. On behalf of the Committee, Dr. Fuller recommended approval of the Board for the increase in per diem and mileage rates.

Dr. Fuller provided the Board Chair with a certification of review of the financial reports with no exceptions being noted.

The Board unanimously approved the recommendations of the Committee.

Executive Director's Report:

Ms. Miller provided updates on legislation applicable to VOPA's work and noted that the Ombudsman Program has been included in budget amendments in both the House and Senate.

In other business, Ms. Miller shared that the Office transition to a new database has been delayed and it is not expected to be completed for at least a month. Staff received in-depth training on the new Human Rights regulations at the January staff meeting. Additionally, Ms. Miller announced that the Virginia Beach office was closed on January 15, 2008. One of the Virginia Beach staff members will telecommute to the Richmond office. The other two staff members resigned. New staff members include Jack Brandt and David Hominik, Disability Rights Advocates, and Eric Berthiaume.

Legal Developments:

Paul Buckley, VOPA Managing Attorney, discussed a case from the Fifth Circuit Court of Appeals, Alvin Independent School District v. AD, in which a student with disabilities was denied special education services because of his positive development in school.

Executive Committee:

- **Approval of Per Diem Rate Change**
- **Retreat Planning**

Mr. Brown shared that as an interim measure to allow VOPA to negotiate based on current state rates, the Executive Committee approved the lodging and per diem changes at the December 21, 2007 meeting. The Board approved the

changes as presented during the Finance Committee report.

Lisa Shehi, VOPA Executive Assistant, reported that although the Board requested Charlottesville for the April Board retreat, there are problems with identifying a suitable site within state rates and that is accessible. She noted that she is now researching meeting sites in Lynchburg. Ms. Shehi asked for clarification from the Board regarding the schedule of the meetings. After discussion, the Board decided to hold an abbreviated Board meeting in the afternoon of Friday, April 25 and the retreat will be held for the full day of Saturday, April 26.

Mr. Brown discussed a complaint to the Department of Accounts and assured the Board that appropriate responses and actions were taken by the Executive Committee.

Mr. Brown referred the Board to a copy of the Report to the General Assembly, highlighting the work of VOPA and the current Goals.

Further, Mr. Brown noted that, for the purposes of conformity to the Virginia Freedom of Information Act, the Executive Committee recommended defining the term "emergency" as it relates to electronic participation in Board and Committee meetings. The definition as developed by the Executive Committee reads: "*A sudden unexpected happening that reasonably could not have been anticipated, as decided by the Chair.*" Board members will review the definition and vote on its adoption at the April 2008 meeting.

Board Chair's Report:

- **Appointment of Nominating Committee**
- **Appointment of Executive Director Evaluation Committee**

Mr. Brown reminded Board members that members of the Nominating Committee cannot nominate themselves for office. Mr. Brown appointed Maureen Hollowell and himself to the Nominating Committee. Mr. Brown will request that Ms. Hollowell serve as the Committee Chair. Ms. Hollowell will contact each Board member for input and the Committee will provide the Board a written slate of nominees no fewer than 30 days before the vote, which will take place at the April Board meeting.

Pursuant to the Board By-laws, Mr. Brown appointed Susan Kalanges (Vice Chair), Bill Fuller (Finance and Resource Development Committee Chair), and himself to serve on the Executive Director Evaluation Committee.

Lunch:

The Board adjourned for a half-hour lunch break beginning at 12:04 p.m.

Internal Policy Committee:

- **1.12 – Critical Incident Reporting**
- **1.6 – Reasonable and Safe Work Environment (new)**

Chris Harrison, Chair, shared that the Internal Policy Committee met on January 28, 2008 and presented three policies for the Board's consideration and action. One new policy was submitted for the Board's review prior to the July 2008 Board meeting.

1.12 – Critical Incident Reporting: The Internal Policy recommended approval of this policy. Colleen Miller added that the policy statement had not changed from the initial Board approval. The procedures were revised to reflect electronic reporting. After discussion, the wording of the policy statement was revised as follows:

It is the policy of the Virginia Office for Protection and Advocacy to receive *and review* mandatory reports of critical incidents or deaths pursuant to Virginia Code 51.5-39.12. *In appropriate cases, VOPA will* determine whether or not probable cause to suspect abuse or neglect contributed to or caused the incident, and will independently investigate such incidents or fatalities when warranted, and *will* recommend remedial and preventative measures as well as legal redress as appropriate.

The policy was unanimously adopted as amended.

1.6 – Reasonably Safe Work Environment: The Internal Policy recommended approval of this policy, which had been presented at the September Board meeting. This policy was unanimously adopted as approved.

2.2 – Response to Subpoenas

On behalf of the Committee, Mr. Harrison recommended that this policy be deleted. The Board voted unanimously to delete this policy.

2.3 – Confidentiality

The Committee presented Policy 2.3 – Confidentiality – for the Board's review. The Committee will request approval of the policy at the July 2008 Board meeting. Board members made suggestions for revisions.

Public Awareness and Goals Committee:

Elizabeth Priaulx, Chair, shared that the Public Awareness and Goals Committee met on January 28, 2008, ensuring VOPA staff are progressing with the current Goals, Focus Areas, and Objectives. Ms. Priaulx reminded the Committee that work will begin on reviewing and proposing Objectives for 2008-2009. Public input will be solicited during the summer.

The Committee was also briefed on several special outreach initiatives.

Public Policy Committee:

Ray Burmester, Chair, reported that there have been no public policy suggestions and the committee has not met.

Reports:

- **PAIMI Council**

Lisa Ritchie, Chair, shared that the Council met on November 14, 2007 in Suffolk, Virginia. The Council welcomed several visitors and a quorum of the Council members were present. Ms. Ritchie summarized public comment received at the meeting. Additionally, Ms. Ritchie shared that the Council formed a Committee to address membership issues, and three new members have been appointed.

The Council will meet in Richmond on February 14 and in locations to be determined on May 8, August 14, and November 14.

Ms. Miller presented Ms. Ritchie with a certificate of appreciation for her leadership on the Board.

- **Disabilities Advisory Council**

There was no report on the Disabilities Advisory Council meeting.

- **Progress on Objectives**

Board members discussed the reports and Ms. Miller responded to questions.

- **Litigation**

Ms. Miller updated the Board on the case VOPA v. Reinhard, noting that the Attorney General filed a Motion to Dismiss, arguing that a state protection and advocacy system cannot sue another state agency. Ms. Miller shared that if this Motion is upheld, it could have far-reaching impacts. The Board discussed other areas of litigation and Ms. Miller provided updates.

There being no further business, Ray Burmester made a MOTION to adjourn at 2:00 p.m. Charles Cooper SECONDED the MOTION and it was passed by unanimous vote. The next meeting of the VOPA Board will be April 25 with a Board retreat on April 26.

FINAL MINUTES

April 25,, 2008
