

**FINAL MINUTES**  
**BOARD OF DIRECTORS**  
**Virginia Office for Protection and Advocacy**  
**Richmond, Virginia**  
**April 25, 2006**

- Call to Order and Welcome:** Maureen Hollowell called the meeting to order at 9:00 a.m. and welcomed Board members, guests, and staff. Ms. Hollowell asked that all present introduce themselves.
- Members Present:** Maureen Hollowell—Chair, Brent Brown—Vice-Chair, Barbara Barrett, Ray Burmester, Michael Cooper, Bill Fuller, Waja Grimm, Chris Harrison, Susan Kalanges, Elizabeth Priaulx
- Members Absent:** Rita Kidd, Dink Shackelford, Dave Wilber
- Guests Present:** Lisa Ritchie, Ed Senft, Elaine Senft
- Staff Present:** Sherry Confer, Colleen Miller, Lisa Shehi
- Training:**  
For portions: Julie Kegley
- **Woodrow Wilson Rehabilitation Center Overview** The meeting began with an orientation and walking tour of the Woodrow Wilson Rehabilitation Center.
- Mission Statement:** Barbara Barrett read the Mission Statement.
- Adopt Agenda:** Elizabeth Priaulx requested that the Report from Priorities and Public Awareness Committee be removed from the agenda as there were no meetings held since the last Board meeting. Susan Kalanges made a MOTION to adopt the agenda as amended. Barbara Barrett SECONDED the MOTION and it was adopted by unanimous vote.
- Approval of January 20, 2006 Minutes:** Bill Fuller made a MOTION to approve the minutes from the January 20, 2006 Board meeting. Barbara Barrett SECONDED the MOTION. Waja Grimm requested correction of the minutes to reflect, on the final page, that comments regarding the Voice of the Retarded memorandum be changed to state “Ms. Grimm noted that she was not asking for any action by the Board with regard to Goals and Focus Areas.” The Board approved the minutes with the noted change by unanimous vote.
- Public Comment:** No public comment was offered.
- Legal Developments:** Julie Kegley, VOPA Acting Managing Attorney, reported on a case involving the Hartford Transitional Learning Academy, a non-residential public school in Connecticut. Ms. Kegley noted that the Connecticut Office for Protection and Advocacy (OPA) received complaints from students regarding inappropriate seclusion and restraint used at the facility and, in some cases, injury as a result of such action. OPA corresponded with the Academy addressing the complaints. The Academy denied OPA access for the purposes of

investigation. Additionally, OPA sought a directory of students. OPA filed suit in the United States District Court alleging:

- There is basis in the federal statutes through the Developmental Disabilities (DD), Protection and Advocacy for Individual Rights (PAIR), and Protection and Advocacy for Individuals with Mental Illness (PAIMI) Acts for authority for OPA to investigate the school;
- OPA did have access to the students to determine if there was any mistreatment under the DD and PAIR Acts;
- The Hartford Transitional Learning Academy is a facility under the PAIMI Act even though not residential; and,
- The DD, PAIR, and PAIMI Acts allows directory information.

The District Court ruled in favor of OPA. The school appealed the decision to the Second Circuit. The Second United States District Court has requested amicus briefs (friends of the court) by the United States Department of Education as well as the Department of Health and Human Services as to whether the PAIMI Act covers non-residential facilities. Ms. Kegley further noted VOPA will follow the developments to determine any impact it could have on work in Virginia and that the 4<sup>th</sup> District Circuit Court may look toward this case for guidance in future cases involving VOPA.

#### **Old Business**

- **Policies Proposed at January Board Meeting**
  - **Service Access and Eligibility**

Susan Kalanges, Committee Chair, distributed revised copies of Policy 1.2, Service Access and Eligibility, and made a MOTION on behalf of the Internal Policy Committee for the Board's adoption of the Policy as amended. Ms. Kalanges noted that the last sentence has been revised to read "The Executive Director will notify the Governing Board of Directors of any such actions within seven (7) working days." The Policy, being brought before the Board by the Committee, required no SECOND. After discussion of the Policy, Ray Burmester made a MOTION to postpone the vote and return the policy statement to the Committee for further clarification. There was no SECOND. Brent Brown made a MOTION to simplify the first sentence to read "It is the policy of the Office to provide its services in an accountable manner." Michael Cooper SECONDED the MOTION to amend. The amendment was adopted by unanimous vote of the Board. The Board voted unanimously to adopt Policy 1.2 as amended.

- **Ombudsman Program**

Colleen Miller reported that VOPA had a sponsor for funding of the Ombudsman Program from both Houses but was not included in either budget. Ms. Miller noted that the language in the governor's budget continues the program until July 1, 2008. The Board discussed when VOPA should plan to submit the request for funding through the next budget cycle.

- **Director's Evaluation – Executive Session**

Barbara Barrett made a MOTION to adjourn to closed session for the purpose of discussing the Executive Director's evaluation. Michael Cooper SECONDED the MOTION and it carried by unanimous vote. This meeting is specifically authorized to be conducted in closed session pursuant to section 2.2-3711 (A) (1) of the Code of Virginia.

After discussion in closed session, Barbara Barrett read a statement to certify that only such public business as that identified in the MOTION to close the meeting was heard or considered. Each member affirmed this certification.

## **New Business**

- **Election of Officers**

On behalf of the Nominating Committee, Barbara Barrett presented the following slate:

**Chair** – Brent Brown

**Vice-Chair** – Susan Kalanges

There being no further nominations from the floor, Michael Cooper made a MOTION to close the nominations. Waja Grimm SECONDED the MOTION and the vote to close the nominations was unanimous. Bill Fuller made a MOTION to accept the nominations as presented by the Nominating Committee. Ray Burmester SECONDED the MOTION and it passed by unanimous vote.

- **Board Survey**

Colleen Miller requested that Board members complete the survey found behind Tab 5 in their Board packets. Ms. Miller explained that the survey would be useful in determining the type of orientation needs to be offered to new Board members, where improvements can be made, and for staff to better understand needs of the Board.

- **Travel Regulations**

Ms. Miller requested that the Board adopt new travel regulations as revised by the Commonwealth of Virginia. Of significance, the new regulations include reimbursement for use of private aircraft and clarification of allowable meals covered under the per diem. Michael Cooper made a MOTION to adopt the travel regulations. Barbara Barrett SECONDED the MOTION and they were adopted by unanimous vote of the Board.

## **Reports:**

- **PAIMI Council**

Chris Harrison, Council Chair, noted that the Council met in February. Discussion at that meeting included outreach to mental health consumer groups to increase the knowledge and awareness of VOPA. Additionally, the Council discussed new member recruitment strategies for the Council. Furthermore, former PAIMI Chair Mark Lester ended his term on the Council. Subsequent to the meeting, a Council member resigned due to her perception that PAIMI is under-represented on the Board. She noted that she felt that the Council chair not having a full vote on the board was a serious problem.

Board members affirmed that Council members should be given due consideration for Board nominations, as reflected in Board policy.

- **Disabilities Advisory Council**

Sherry Confer, VOPA Policy Director, noted that the Disabilities Advisory Council met in January. Ms. Confer provided legal rights training on "How a Bill Becomes a Law." Julie Palmer, DAC member, volunteered to work with the VOPA Virginia Beach legal staff regarding foster care and special education. Ms. Confer noted that the DAC discussed Council membership recruitment plans.

- **Progress on Priorities**

Ms. Kalanges asked who would be responsible for psychiatric bed shortages; Ms. Miller responded that the issue was still under investigation. Ms. Kalanges asked for an explanation as to the work

done with legislative changes relating to emergency custody orders; Ms. Miller provided a summary of the agency's work.

Regarding Focus Area #3 - Alternative to Decision-making Methods, Ms. Prialux commented that she was pleased to see the development of a flow chart regarding decision-making strategies but asked for clarification of its use and requested that it be included in the next Board package upon its completion.

**Lunch:**

The Board adjourned for lunch as 12:02 p.m. and returned to session at 12:38 p.m.

**Reports (continued):**

- **Litigation**

Regarding VOPA v. Standardsville H.P., ("nursing home") Ms. Miller shared that the nursing home filed a Motion for Demurrer (Motion to Dismiss) which was denied by the court.

Ms. Miller stated that VOPA has developed a practice of filing more amicus briefs than in the past. Ms. Miller clarified that amicus briefs are filed when there is a suit between other parties where an issue of systemic importance has been raised and one of the parties, or the court, has invited VOPA to participate.

- **Director**

Ms. Miller invited Board members to let her know if they are interested in attending the upcoming National Disability Rights Network (NDRN) conference in June. Early-bird deadline for registration is May 1.

Ms. Miller explained that during the General Assembly session she worked closely with National Alliance on Mental Illness (NAMI), other advocacy groups, and the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS).

Regarding personnel, Ms. Miller advised that the Administrative Assistant position in Virginia Beach has been filled and that the second round of interviews for the Administrative Assistant position in Richmond will be scheduled in the near future.

Ms. Miller presented plaques to Barbara Barrett and Michael Cooper whose Board terms expire on June 30, 2006, thanking them for their service to the Board. Additionally, Ms. Miller expressed her thanks to Maureen Hollowell, whose term as Chair ends on June 30, 2006.

**Committees:**

- **Executive Committee**

Referring to the Executive Committee notes from the March 14, 2006 meeting, Maureen Hollowell explained that the DRS dispute referred to involved an issue raised by the Department of Rehabilitative Services (DRS) regarding VOPA's annual CAP report. Ms. Hollowell explained that Ms. Miller and Brent Brown met with DRS Commissioner Rothrock to clarify concerns. Ms. Miller and Commissioner Rothrock have planned for future meetings on a quarterly basis.

- **Finance and Resource Development** Bill Fuller, Chair of the Finance and Resource Development Committee, summarized the financial reports provided to the Board. Dr. Fuller summarized the reports and affirmed that VOPA's positive financial standing. The Finance and Resource Development Committee will next meet on July 19, 2006 at 10:00 a.m. in Richmond.
  
- **Internal Policy**
  - **New Policies** The Internal Policy Committee met on Monday, April 24, 2006. On behalf of the Committee, Ms. Kalanges distributed drafts of two policy statements to be reviewed by Board member and for action in July 2006. Ms. Kalanges advised that staff are still researching issues surrounding the Virginia Freedom of Information Act. Ms. Hollowell stressed that it is important for Board members to review the draft policies as presented and submit any questions to the Committee prior to their next meeting.
  
- **Public Policy** Ray Burmester, Committee Chair, noted that this Committee is also involved in the development of a statement regarding public policy statements. Mr. Burmester asked the Board members to submit any proposed public policy statement to the Public Policy Committee.  
  
Ms. Hollowell requested that both the Internal Policy and Public Policy Committee coordinate efforts on the development of one Public Policy Statement policy.

There being no further business, Brent Brown made a MOTION to adjourn the meeting. Susan Kalanges SECONDED the MOTION. Upon unanimous vote, Ms. Hollowell adjourned the meeting at 1:30 p.m. The next meeting of the Board will be July 20, 2006 in Richmond.

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\_\_\_\_\_ July 20, 2006