

**Virginia Office for Protection and Advocacy
Virginia Beach, Virginia
Board Meeting Minutes
April 26, 2005**

Call to Order: The meeting was called to order by Maureen Hollowell, Board Chair, at 9:05 a.m.

Welcome and Introductions: Board members, staff, and guests introduced themselves. Ms. Hollowell welcomed Rita Kidd to the Board. Ms. Kidd will serve in the unexpired term left vacant by the death of Charity Gray-Daigre.

Members Present: Barbara Barrett, Brent Brown, Michael Cooper, Waja Grimm, Chris Harrison, Maureen Hollowell, Susan Kalanges, Rita Kidd, Okpil Kim, Elizabeth Priaulx, Dink Shackelford, Dave Wilber

Ray Burmester joined the meeting by telephone.

Guest Present: Lisa Richie, PAIMI Council member

Staff Present: Sherry Confer, Gary Conover, Colleen Miller, Lisa Shehi

Legal Rights Training:

- **Lessons Learned from Brice's Villa: P&A Standing and Rights in the Community**

Gary Conover, VOPA Managing Attorney, presented on "*The Right to be Free from Abuse and Neglect, and the P&A's Authority and Standing to Enforce the Right.*" Mr. Conover explained 1) essential elements for effective enforcement, 2) why enforcement of this right is important, 3) the State statutory right to be free from abuse and neglect, and 4) VOPA's standing and legal authority to sue in its own name to enforce the right.

Mission Statement: Maureen Hollowell read the mission statement.

Adopt Agenda: The following changes to the agenda were noted:

Additions:

- After Public Comments, add Announcements. Ms. Hollowell requested that this become a permanent agenda item.
- In Old Business, discussion of the Virginians with Disabilities 20th anniversary celebration.
- Waja Grimm requested an addition to Old Business to discuss a policy in which VOPA would assist people to enter training centers.
- In New Business, Ms. Hollowell requested discussion of upcoming NAPAS-sponsored trainings.
- Elizabeth Priaulx requested that the report from the Priorities Committee be deleted from the Committee Reports as the Priorities would be discussed by the Director.

Barbara Barrett made a MOTION to adopt the changes as noted. Michael Cooper SECONDED the MOTION and it passed

unanimously.

Approval of January 25, 2005 Minutes:

Elizabeth Priaulx made a MOTION to accept the minutes as presented. Barbara Barrett SECONDED the MOTION. The MOTION passed unanimously with one abstention noted.

Public Comment:

There was no public comment offered.

Announcements:

Susan Kalanges shared the existence of the Network of Care – an internet source of information related to mental health/mental retardation. Individuals may access this website (www.networkofcare.org), search for information, and save the information in individual “folders” for future reference. Ms. Kalanges distributed a handout of additional information.

Ms. Hollowell noted that the Virginia Centers for Independent Living would be hosting regional and statewide workshops on community services and would encourage all advocates to participate as possible. Ms. Hollowell distributed a handout of upcoming training opportunities.

Old Business:

- **Retreat Follow-up Plans**

Barbara Barrett noted that the Retreat Follow-up Committee met in Northern Virginia on March 29, 2005. The meeting resulted in two action items:

1. Colleen Miller will check with other protection and advocacy organizations and obtain their mission and vision statements. Ms. Miller will present her findings at a future Board meeting. Further, Ms. Miller will work with NAPAS to identify potential P&A Executive Directors to facilitate that discussion at the September meeting.
2. Ray Burmester proposed that the VOPA Governing Board eliminate the use of the committee structure and develop time-limited, goal-specific work groups.

- **Leadership Opportunities**

Ms. Miller noted that a change away from a formal committee structure would not eliminate the “core” committees nor mean that the Board would never function in small groups. Members expressed a concern and continued need for “core” committees.

Mr. Brown noted that committees build accountability, structure, and trust. Mr. Brown reminded the Board that the committee structure was determined at the previous Board meeting and included staff participation in committees.

- **Mission Statement Plan**

Ms. Miller will identify a facilitator for the September 2005 or January 2006 Board meeting to allow for a discussion of the Mission Statement and development of a Vision Statement.

- **Ombudsman Program**

Ms. Miller provided information on the statutory requirements for the establishment of the Ombudsman Program as well as questions for

the Board's discussion and consideration. The issues before the Board are: 1) how VOPA will manage this Program, and 2) how the program will be funded.

Additionally, a consideration would be whether the Ombudsman Program is operated as an advocacy or a mediation program

Ms. Miller noted that, as written, the statute allows for a complaint being made against *any* government agency regarding the quality or nature of services provided. Action must be taken on complaints within defined periods. The Program is to be State-funded but, to date, the State has not funded the Program. As such, the Program has been delayed until July 1, 2006.

Ms. Hollowell suggested that VOPA propose a "pilot program" with limited services. Ms. Hollowell suggested that in order to move forward, VOPA incorporate a request for funding within the upcoming budget submission to the General Assembly. Okpil Kim recommended that performance measures be included in the budget submission.

The Board agreed to the formation of an *ad hoc* committee to study the Pilot Ombudsman Program. Ms. Hollowell requested that this committee meet within the next month and present, in writing, to Board members recommendations for this Program. Committee members are charged with incorporating feedback into the Program with a follow-up meeting two weeks prior to the July 19 Board meeting. Mr. Brown agreed to chair this committee. Additional committee members include Barbara Barrett, Michael Cooper, Maureen Hollowell, and Colleen Miller. Mr. Brown requested Ms. Miller solicit ideas from staff and management.

Lunch:

The meeting adjourned at 12:10 and reconvened at 12:40. Ms. Hollowell acknowledged Okpil Kim's service to VOPA and presented her with a plaque of appreciation.

Old Business: (continued)

- **2006 Goals**

Sherry Confer reported on the process of collecting public input on VOPA's priorities. She noted that VOPA is currently hosting focus groups, with representatives from different groups, in various regions of Virginia to solicit input for FY 2006 Focus Areas. Barbara Barrett requested that Board members be notified when focus groups are scheduled.

Ms. Miller noted that she will be working with the VOPA webmaster to develop a web-based survey for additional input. With that public input, the Board will develop the Focus Areas at the July 19, 2005 Board meeting. Staff will then propose the Objectives. Board approval of the Goals, Focus Areas, and Objectives will be requested at the September 2005 Board meeting.

Ms. Confer reported that the Disabilities Advisory Council (DAC) and Protection and Advocacy for Individuals with Mental Illness (PAIMI) advisory council and a focus group reviewed last year's goals and recommended continuing the same goals. Barbara Barrett made a MOTION to approve the identified Goals for FY 2006. Susan Kalanges SECONDED the MOTION and it passed with unanimous vote.

- **Changes to FOIA**

Ms. Miller shared that changes to the Virginia Freedom of Information Act (Senate Bill 1196) will become effective July 1, 2005. Changes in the Act will allow for an increased number of meetings by public bodies through electronic means, with the following requirements:

1. A Notice of Meeting will be required seven (7) working days in advance.
2. All locations must be open to the public.
3. The Notice of Meeting must include a telephone number to report dropped electronic connections and reconnection of the caller.
4. All votes must be "roll-call" manner.
5. Minutes must be recorded and identify which members attended from the primary location, remote locations, and any members who "monitored" the meeting electronically.
6. At least one meeting annually must be physically in one location with no participation by electronic means.
7. Annual reports of electronic meetings to the Freedom of Information Advisory Council and Joint Commission on Technology and Science will be required.

Board discussion included accessibility concerns and liability of remote locations. Members expressed concerns about using homes as the location of remote participation. Development of a Board policy on participation through electronic means was deferred to the Policy Committee for study.

Old Business:

- **Virginians with Disabilities 20th Anniversary:**

Ms. Hollowell inquired about VOPA's participation in the Virginia with Disabilities 20th anniversary celebration by VOPA. Ms. Miller explained that VOPA had not been invited or requested to participate in the planning of this celebration. DRS has assembled a group for the planning.

Barbara Barrett made a MOTION to draft a letter to the Secretary of Health and Human Resources expressing concern that VOPA was excluded from this process. Susan Kalanges SECONDED the MOTION. After discussion, the MOTION and SECOND was withdrawn.

It was noted that no consumers had been included in the planning process. Ms. Priaulx made a MOTION to write a letter addressing the exclusion of consumers from this process. The MOTION did not

receive a SECOND and the MOTION failed.

- **VOPA Representation of Individuals In Training Facilities**

Waja Grimm reminded the Board that in November 2003, she had requested that VOPA represent people wanting to enter institutions. Ms. Grimm noted that at that time, Ms. Miller had expressed that this would be in conflict with the statutes authorizing the protection and advocacy system. Ms. Grimm further noted that she had been in discussion with the Executive Director of the Voice of the Retarded who had a conflicting opinion. Ms. Grimm requested that Ms. Miller participate in a conference call with the Executive Director of the Voice of the Retarded along with Board members. Susan Kalanges made a MOTION for this call. Waja Grimm SECONDED the motion. Ms. Miller noted that she would welcome the opportunity to participate in this call. The MOTION was withdrawn.

Michael Cooper requested that, according to the Board's established practice, a one-page listing of pros and cons of the issues like this be presented to the Board in advance for consideration.

New Business

- **By-laws Changes**

Ray Burmester presented proposed changes to the by-laws, as requested at the last meeting:

1. Reduction to two Board members participating on the Nominating Committee;
2. Acceptance of nominations via e-mail;
3. The composition of Special Committees to include at least two Board members and one staff representative. Members of the advisory councils shall be encouraged to participate on special committees.

Brent Brown made the MOTION to accept the changes to the by-laws as presented. Michael Cooper SECONDED the MOTION. Further discussion followed regarding participation of "non-Board" members on Special Committees. Michael Cooper made a MOTION to move the previous question. The MOTION received the required two-thirds vote. The MOTION to accept the changes to the by-laws was approved unanimously.

- **FY 2006 Officers**

Waja Grimm presented nominations for Board Officers as of July 1, 2005: Maureen Hollowell as the VOPA Governing Board Chair and Brent Brown as Vice Chair. There being no further nominees from the Board members, Barbara Barrett made the MOTION to close the nominations. Elizabeth Priaulx SECONDED the MOTION and it passed by unanimous vote. Barbara Barrett followed with a MOTION to accept the nominations as presented. Michael Cooper SECONDED the MOTION and it passed by unanimous vote.

NAPAS Training:

Elizabeth Priaulx announced the upcoming NAPAS Annual Conference June 14 – 17, 2005. Chris Harrison will represent the PAIMI Council as a presenter at the Conference. Ms. Miller asked that if any other Board members wished to attend, they notify her as

soon as possible.

Reports:

- **Chair**

Ms. Hollowell noted that the report from the Board has been presented to the General Assembly for posting on the legislative website. Ms. Hollowell shared that she and Ms. Miller met with Sandy Hermann and Heidi Lawyer, Chair and Executive Director, respectively, of the Virginia Board for People with Disabilities to discuss community incident reporting. Ms. Miller followed that meeting with an overview of VOPA at a recent Virginia Board meeting. Ms. Hollowell noted that the next steps are for the Chair and Executive Director of the Virginia Board to meet with Pat Finnerty of the Department of Medical Assistance Services and James Reinhard of the Department for Mental Health, Mental Retardation, and Substance Abuse Services. Ms. Hollowell noted that she had attended a meeting of Medicaid waiver network and the Virginia Coalition of Students with Disabilities. Ms. Hollowell had not attended as a representative of VOPA. At each of these meetings, Ms. Hollowell recognized very significant questions that the advocates and attorneys had and, at both group meetings, had expressed interest in having VOPA involved.

- **PAIMI Council**

Chris Harrison, Chair of the PAIMI Advisory Council, noted that the Council last met on February 10, 2005 in Richmond. Council members participated in training on assistive technology similar to the training received by the Board at the January 25, 2005 Board meeting. Mr. Harrison noted that he had shared the opportunity for Board committee participation by council members. Mr. Harrison noted no volunteers. Additionally, Mr. Harrison noted that he had resigned his position on the Spanish Advisory Committee and will be replaced by Byron Stith. Further, Mr. Harrison noted that the Council had actively participated in identification of Goals for the 2006 Fiscal Year. The next PAIMI Council Meeting will be held May 12, 2005 in Charlottesville.

- **Disability Advisory Council**

Sherry Confer noted that while Edward Zeigler, Vice Chair, is temporarily unavailable, Dave Wilber (who had attended the Board meeting on behalf of the Council) is the Acting Vice Chair. Ms. Confer explained that Mr. Zeigler's term had been suspended and would resume when he is able to return to his activities. The next DAC meeting will be April 28, 2005 in Richmond and the DAC will work on Focus Areas for the 2006 Fiscal Year. Additionally, Ms. Confer noted that the DAC is actively recruiting for new members.

- **Director**

Colleen Miller noted that she has received notice that VOPA will be the subject of a PAIMI site-visit the week of August 8, 2005 to coincide with the August PAIMI Council meeting. This is expected to be a comprehensive review of the agency and a careful look at the governance work of the Board.

Ms. Miller shared recent changes to the VOPA staff: Angela Matney, Disability Rights Advocate, has resigned to accept a new position; Clyde Matthews, Managing Attorney, has received additional military orders and will not return in May as originally expected. Mr. Matthews anticipates a return to the VOPA office in September 2005 at the earliest. The extension of his military orders means that his VOPA role will continue to be filled on a temporary basis.

Ms. Miller shared that she had recently attended the NAPAS CEO Conference in Crystal City, Virginia.

Ms. Miller also noted appreciation to Lisa Shehi as the CommonHealth Coordinator for the agency. Ms. Miller explained that CommonHealth is a program with many excellent resources, and that, through the CommonHealth program, three staff have successfully stopped smoking.

- **Progress on Priorities**

Ms. Miller noted that the Progress on Priorities report was included in the Board packet. In outreach efforts, Ms. Miller shared that Pam Branch, Acting Managing Attorney, has participated in a radio program discussing VOPA.

Chris Harrison asked if VOPA is currently working with any cases regarding the refusal to allow service animals in public or privately-owned housing. Ms. Miller noted that she is not aware of anything currently being investigated by VOPA. She stated that VOPA has successfully represented clients in need of service animals in courthouses and medical offices.

Elizabeth Priaulx requested that a version of the Progress on Priorities be posted on the website in an effort to educate the public on VOPA's accomplishments. Ms. Priaulx also noted that she would recommend the development of a strategic plan as an agenda item for the next Board meeting.

- **Litigation**

Ms. Miller pointed out that when VOPA accepts a client case, the resolution may have wide-reaching results. An example of this would be the success against the Hunter Holmes McGuire Veterans Medical Center. The case against McGuire has set national precedent and Paul Buckley, VOPA Staff Attorney on the McGuire case, has presented this case at national conferences.

Michael Cooper congratulated Ms. Miller on the recent positive outcome of *VOPA vs. Department of Rehabilitative Services (DRS)* and noted that he would encourage VOPA to continue to monitor DRS' compliance in this area.

Mr. Cooper also asked that Board members recognize that people with disabilities may be affected by cases other than those brought in

the name of disability rights. As an example, Mr. Cooper identified a custody case based on sexual orientation in Northern Virginia in which one of the parents has a hearing loss.

Committees:

- **Finance**

Okpil Kim noted that the financial reports were provided for review prior to the Board meeting. Mr. Cooper noted that there appears to be approximately \$60,000 remaining in the Virginians with Disabilities Act (VDA) grant funds and asked Ms. Miller if there are plans to spend the remaining funds before the end of the fiscal year. Ms. Miller confirmed that the VDA funds will be fully utilized before July 1, 2005.

- **Policy**

- **Recruitment Policy**
- **Board Positions**
- **Additional items under consideration**

Susan Kalanges noted that there were several issues addressed by the Policy Committee at the meeting on Monday, April 25, 2005:

Recruitment Policy: Ms. Kalanges noted that there were no changes to the Recruitment Policy. The MOTION of the Policy Committee was to approve the Policy. No SECOND was required. The vote to approve the adoption of the Recruitment Policy passed unanimously.

Board Positions: Ms. Kalanges presented a handout of proposed language addressing Board and Council members representing VOPA. Ms. Hollowell stated that she would like to see the VOPA Board Chair involved in the decision. Ms. Miller stated that the Chair is also involved when a Board member requests reimbursement for special travel, so the Chair's involvement here would be consistent. Ms. Miller suggested adding "and Board Chair" to the end of the first sentence. Brent Brown made the MOTION to approve the language for the Policy as amended. Dink Shackelford SECONDED the MOTION and it passed by unanimous vote.

Operating Policies and Procedures: Each of VOPA's operating policies and procedures includes a statement of policy followed by the steps to implement that policy. Ms. Kalanges moved that the Board approval process be to review and approve the Policy Statement and allow Ms. Miller the latitude to develop implementation steps. The Policy Committee will review the implementation steps, but present only the policy to the Board for approval. If Board members request to see the implementation steps, they may do so. No SECOND was required. The procedure was passed by unanimous vote of the Board.

It is the policy of the Virginia Office for Protection and Advocacy to discuss with the client the option of using mediation, if available, or other dispute resolution techniques, if available, to the extent that VOPA's client and the other parties agree, before formal administrative or legal remedies are implemented.

Conflict of Interest Policy: Ms. Kalanges shared that the Policy Committee had reviewed Conflict of Interest policies from other

protection and advocacy organizations and used some of that language as a template for VOPA's policy. The Conflict of Interest Policy addressed by the Policy Committee would concentrate on non-financial conflicts. Request was made to include a citation within this Policy to the state Conflict of Interest statute that speaks to financial conflicts. Review of the Conflict of Interest Policy was tabled for discussion at the July 19, 2005 Board meeting.

Evaluation of the Executive Director: Ms. Kalanges presented proposed language for the Policy. Mr. Brown made the MOTION to approve the policy with a wording amendment to the language to read "The Full Board will evaluate the Executive Director in writing....". Elizabeth Priaulx SECONDED the MOTION. The MOTION was approved by unanimous vote.

In closing, Ms. Kalanges shared that the Policy Committee will continue to work through the operating policies of the agency and develop other policies as identified by the Board.

- **Incidents in the Community**

There was no report from the Incidents in the Community Committee.

The next meeting of the VOPA Board is July 19, 2005 in Richmond, Virginia.

There being no further business, Barbara Barrett made the MOTION to adjourn. Elizabeth Priuault SECONDED the MOTION and it passed unanimously. The meeting adjourned at 3:44 p.m.

APPROVED MINUTES:

_____ July 19, 2005