

**Virginia Office for Protection and Advocacy  
Richmond, Virginia  
Board Meeting  
FINAL MINUTES  
April 27, 2011**

- Members Present:** Bill Fuller – Chair, Elizabeth Priaulx - Vice Chair, Charles Cooper, Rita Kidd, Darrel Mason, Michael Newcomb, Martha Pillow, Angela Thanyachareon, Linda VanAken
- Members Absent:** Maureen Hollowell, Susan Kalanges, Daaiyah Rashid, Tom Walk
- Staff Present:** Sherry Confer, Colleen Miller, Lisa Shehi  
  
Zachary Devore (for portions)
- Welcome and Call to Order:** Bill Fuller, Chair, called the meeting to order at 9:03 a.m. He introduced Martha Pillow as a new Board member and asked all other members and staff to introduce themselves.  
  
He announced that Charles Cooper’s term on the Board ends on June 30 and that he has chosen not to be reappointed. Bill Fuller thanked him for his participation on the Board and leadership on the Finance Committee during his term and presented him with a plaque of appreciation. Charles Cooper expressed his appreciation to Board and Committee members.
- Board Training and Discussion:**
- **Developmental Disabilities Act** Zachary Devore, VOPA Staff Attorney, provided a refresher training on the Developmental Disabilities Act. He shared that the DD Act was the first law created to develop the protection and advocacy system and is the basis for all subsequent protection and advocacy programs.
- Mission Statement:** Charles Cooper read the Mission Statement.
- Adopt Agenda:** Colleen Miller, VOPA Executive Director, shared that the Internal Policy reference to Policy 1.1 – Services – is not a new policy and is being presented for a second reading and vote for adoption.  
  
The Board adopted the agenda as amended.
- Approval of January 29, 2011 Minutes:** Colleen Miller noted that Policy 1.1 – Services - was presented to the board for first review at the January meeting. Angela Thanyachareon asked that the minutes reflect her position as Acting Chair of the Internal Policy Committee. Charles Cooper made a MOTION to approve as amended. The January 29, 2011 minutes were approved by unanimous vote.

**Public Comment:**

No public comment was offered.

**Executive Director's Report:**

Colleen Miller referred Board members to the Director's Report in the Board package. She discussed significant changes since that report. She shared that long-time Disability Rights Advocate Faye Adams retired and announced the illness and death of Kim Ware, VOPA's Data Analyst. Kim Ware's ability to develop trend analyses based on critical incident data VOPA receives is a significant loss.

She also shared that VOPA hired a contract, part-time employee to provide reading and driving accommodations.

Colleen Miller thanked the Board for support during the Supreme Court case and discussed the Supreme Court decision in which VOPA prevailed.

She talked about objectives that VOPA may have difficulty meeting due to staff shortages. She stated that VOPA will continue to strive for completion of those Objectives. Those Objectives include:

**Goal 1: People with Disabilities are Free from Abuse and Neglect**

Focus Area 1: Adequate System for Protection from Harm in Institutions

5. Establish whether the Commissioner, DBHDS, has implemented a system for the standardized reporting of seclusion and restraint events, and the compilation, analysis, and publication of seclusion and restraint data by DBHDS-operated institutions. Obtain corrective action as appropriate.
8. Prepare quarterly summaries and semi-annual trend analyses of Critical Incident Reports (CIRs) and other analyses as needed, for use in institution monitoring.

Focus Area 2: Adequate System for Protection from Harm in Licensed Community Residential Settings

6. Prepare quarterly summaries of all reports submitted by Adult Protective Services (APS) to identify possible patterns of abuse or neglect.

Focus Area 3: Abuse or Neglect in Community or Institutional Settings Serving Children and Adolescents

4. Investigate the seclusion and restraint practices at the Commonwealth Center for Children and Adolescents. Seek corrective action, to include systemic reform, as necessary.

6. Prepare semi-annual summaries of all reports submitted by PRTFs for use in monitoring and to identify possible patterns of abuse or neglect.

**Goal 3: People with Disabilities Have Equal Access to Government Services**

Focus Area 1: Access to Vote for Persons with Disabilities

5. Represent five (5) individuals who have encountered barriers to voting based upon their disability.
6. By March 1, 2011, identify three (3) county or city school districts where schools also serve as voting sites and conduct accessibility surveys of the voting sites. Obtain corrective action as appropriate. In choosing the counties or cities, preference will be given to previously underserved areas.
9. Survey every registrar's office in the Commonwealth for compliance with the Americans with Disabilities Act (ADA).

Focus Area 2: Access to State and Federal Government Services

5. Represent individuals with disabilities regarding the denial of Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits by the Social Security Administration at the administrative appeal level, at less than the standard fee approved by the Social Security Administration.
8. Advocate or litigate to ensure that forty (40) private businesses that provide services and who are under a contract with a state agency are accessible to people with disabilities in compliance with state and federal law. Obtain "prevailing party" attorneys fees where appropriate.
9. For each private business addressed under the above objective, inform the state agency with which it contracts regarding the business' violation of state and federal law. Seek corrective action from the state agency.

Focus Area 3: Appropriate TBI Supports for Veterans

3. Represent two (2) Veterans with TBI denied appropriate services or supports.

She shared that summer interns may be tasked with some of these objectives, including the surveys and demand letters under Goal 3.2.8 above.

She shared that VOPA will incur a significant outlay of capital in the purchase of new computers. VOPA's goal is to replace one-third of staff computers annually and noted that the

industry standard is replacement every three years.

Colleen Miller provided Board members with an annual report prepared for General Assembly and requested that Board members provide her feedback on other uses for this tool. Some thought has been given to using it for resource development of the new 501(c)(3) and announce opportunities to participate in that entity. She asked that if Board members had other suggestions of audiences that could benefit from this material, they let her know. She also shared that one legislator visited VOPA to learn more about the Office activities and other legislators desire to do so, but had scheduling conflicts.

Colleen Miller shared that she met with parents of residents at Northern Virginia Training Center and hopes to meet with many of the parent groups throughout the state in response to Department of Justice findings of Virginia's training centers. She added that the Secretary of Health and Human Services, Bill Hazel, in response to the DOJ findings, has said that services at the training centers will downsize and some training centers may close. Elizabeth Priaulx added that the Center for Mental Health Services will be issuing guidance to define the model of community.

#### **Executive Committee:**

- **Committee Membership**

Bill Fuller referred Board members to the Report in the Board package. He explained that the Executive Committee approved an interim Section 504 grievance policy as a result of a Civil Rights complaint.

He announced the following updates to the Committee structure:

- Angela Thanyachareon, Chair of Internal Policy
- Removed Angela Thanyachareon from Public Awareness
- Linda VanAken, Chair of Finance Committee
- Elizabeth Priaulx will continue to chair the Public Awareness and Goals Committee
- Bill Fuller will continue to chair the Resource Development Committee

He added that after completion of a new Board member Orientation with Martha Pillow and Tom Walk, he will discuss their interests and appointments to committees.

- **Evaluation and Compensation Committee (Executive Session) – Executive Director Performance Evaluation**

Charles Cooper made a MOTION to adjourn to closed session for the purpose of discussing the performance and salary evaluation of the Executive Director. This meeting is specifically authorized to be conducted in closed session pursuant to section 2.2-3711 (A) (1) of the Code of Virginia.

Darrel Mason SECONDED the MOTION and it carried with unanimous approval of the Board.

After discussion in closed session, Charles Cooper read a statement to certify that only such public business as that identified in the MOTION to close the meeting was heard or considered. Darrel Mason SECONDED the MOTION and called for the vote of each member present. Each member personally and individually affirmed this certification.

Bill Fuller made a MOTION to accept the report of the Evaluation Committee. Angela Thanyachareon SECONDED the vote. Eight members agreed to the vote and one member abstained.

Additionally, Elizabeth Priaulx made a MOTION to increase the salary of the Executive Director by 5%. The increase will be to offset the required 5% deduction for retirement contribution. Charles Cooper SECONDED the MOTION and it passed by unanimous vote.

**Nominating Committee:**

- **Presentation of Slate of Officers and Election of Officers**

Elizabeth Priaulx shared that the Committee met on January 29, 2011. On behalf of the Committee, she presented the proposed slate of officers:

Bill Fuller – Chair  
Darrel Mason– Vice Chair

With no nominations from the floor, the nominations were closed. The nominations were accepted by the Board by unanimous vote.

After the nominations were closed, Bill Fuller called for the vote. Bill Fuller and Darrel Mason were unanimously elected to the offices of Chair and Vice Chair, respectively.

**Lunch:**

The Board adjourned for lunch from 12:03 – 12:25 p.m.

**Finance and Resource  
Development Committee:  
Financial Report**

Charles Cooper, Chair, noted that the Finance Committee met on April 26 and examined all areas of the budget, finding no exceptions. He presented certification for acceptance by the Board, which was accepted by unanimous vote.

He shared that the Committee received a report from staff on the Representative Payee program. This program has generated unrestricted income for VOPA which has been deposited into a separate checking account. The checking account has a system of controls to protect from unapproved access to the funds. On behalf of the Committee, he presented the following proposal of account controls to the

Board for first review:

- The Custodian of the checkbook will not be an authorized signer or approver of disbursements.
- Any expenditure must be reviewed and pre-approved by the Executive Director.
- The bank statement will be reviewed by the Finance Committee quarterly.
- All account records will be reviewed annually.
- The Custodian of the checkbook will be interviewed by the Finance Committee annually.

The Board will be asked to vote on approval of these procedures at a future meeting.

Once the agency's operating fund is reimbursed for expenses incurred on behalf of the Representative Payee Contract with the National Disability Rights Network, the balance remaining is held in the specified agency checking account. The Committee recommended that these funds may be used to support other projects outside of VOPA's objective or grant terms. Some of the suggested expenditures include:

1. One-half of the NDRN annual dues.
2. Up to \$15,000 annually for resource development
3. Other expenditures as recommended by the Executive Director with approval from the Finance Chair.

Additionally, Charles Cooper shared that the lease on office space at 1910 Byrd Avenue ended February 28, 2011 and has been continued on a month-to-month basis until such time as negotiations with the landlord have been completed.

## **Resource Development**

Bill Fuller, Committee Chair, announced the creation of the 501(c)(3) named The Virginia Disability Law and Advocacy Fund ("The Fund") and announced that The Fund has established an authorized agent, bylaws, Articles of Incorporation, and Articles of Restatement. On behalf of the Committee, he presented the following recommendations:

- This is a fundraising organization. Every member of the Fund Board will be expected to contribute.
- The Fund Board should have 9 to 13 members.
- The Fund Board will be selected based on disability awareness, experience, and skills in fundraising.
- The Resource Development Committee will approach potential members, invite them to write a letter of interest, screen potential members based on qualifications, and present recommendations to VOPA's Governing Board for appointment.
- Members of VOPA's Governing Board may volunteer to be on the Fund Board, but membership is not guaranteed.
- VOPA's Executive Director will not be a member of

the Fund Board.

Darrel Mason made a MOTION to adopt the recommendations. Elizabeth Prialux SECONDED the MOTION. The MOTION was passed by unanimous vote.

**Internal Policy Committee:  
New Policies**

Angela Thanyachareon, Chair, distributed the report from the Internal Policy Committee and noted that they reviewed the following policies and presented them for first reading by the Board.

**(New) Policy 7.1, Information Technology:** The Virginia Office for Protection and Advocacy will efficiently maximize and effectively safeguard the usage of information technology (including but not limited to Internet, electronic communication systems and computer networks) in the course of service delivery and daily operations.

**(Old) Policy 7.1, Information Technology:** *It is the policy of the Virginia Office for Protection and Advocacy to efficiently maximize and effectively safeguard the usage of information technology (including Internet, electronic communication systems and computer networks) in the course of service delivery and daily operations.*

*Nothing in this policy conflicts with The Virginia Department of Human Resource Management Policy #1.75.*

\* \* \*

**(New) Policy 5.2, Supervision:** The Virginia Office for Protection and Advocacy (VOPA) ensures employees provide high quality, consumer driven services by providing appropriate supervision.

Supervision includes overseeing the productivity and workload progress of employees by providing orientation, training, and routine feedback about performance. Routine, regularly scheduled face-to-face supervision is required and will include reviewing a sample of work products, discussion of performance or training needs, and clarification and enforcement of policies, procedures, office practices and funding stream requirements.

All staff providing client related or systemic advocacy services are supervised by an attorney.

**(Old) Policy 5.2, Supervision:** *It is the policy of the Virginia Office for Protection and Advocacy (VOPA) to ensure employees provide high quality, consumer driven services.*

*Supervision includes overseeing the productivity and workload progress of employees by providing orientation, training, and on-going/routine feedback about performance.*

*Routine, regularly scheduled face-to-face supervision is required and will include reviewing a sample of work products, discussion of performance or training needs, and clarification/enforcement of policies, procedures, office practices and funding stream requirements.*

*All staff providing client related or systemic advocacy services are supervised by an attorney.*

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**(New) Policy 1.11, Litigation Costs to be Assumed by**

**Client:** As required by state and federal laws and regulations, including the Rules of Professional Conduct, clients of the Virginia Office for Protection and Advocacy (VOPA) are ultimately responsible for all court costs and expenses of litigation incurred in their cases. VOPA may choose to advance court costs and expenses of pending or contemplated litigation in a particular case, but the client will remain ultimately responsible for such costs and expenses. If VOPA determines that a client is indigent, it may, but does not have to, pay court costs and expenses of litigation on behalf of that client without the client being ultimately responsible for them.

**(Old) Policy 1.11, Costs to be Assumed by Client:** *It is the policy of the Virginia Office for Protection and Advocacy to utilize its federal and state funding to cover the costs of providing case level services at no charge to the client. A client may be required to cover the costs associated with obtaining evidence and witnesses, such as, but not limited to, the cost to obtain an expert to assist with their case. VOPA may also require the client to pay the cost for certain exceptional services.*

\* \* \*

**Emergency Planning Policy Statement:** The Virginia Office for Protection and Advocacy (VOPA) will maintain a safe work environment and minimize the delay or loss of services in the event of a disaster or emergency. VOPA will develop and implement emergency, disaster contingency and disaster recovery plans which will include business and safety practices and procedures to mitigate losses to the Office, minimize disruption of services for our constituents, and minimize injuries to employees, interns and visitors. The Office will maintain and review its contingency and recovery plans annually. These plans will identify critical client services and essential Office functions and the steps necessary to continue necessary operations.

These policies will be presented at a future Board meeting for adoption.

- **Policy 1.1 – Services**

On behalf of the Committee, Angela Thanyachareon recommended adoption of Policy 1.1 – Services as follows:

The Virginia Office for Protection and Advocacy (VOPA)

provides assistance and representation to address disability-related abuse and neglect, discrimination, and inappropriate services and treatment as directed and supported by the state and federal programs administered by the Office. Services are made available in accordance with prescribed policies and procedures, to the extent that funding is availability, and consistent with the purposes and authority granted by state and federal laws.

No SECOND was required. No discussion was offered and the Board voted unanimously to adopt Policy 1.1 – Services as presented.

**Public Awareness and Goals Committee:**

Elizabeth Priaulx, Chair, noted that the Committee has not met since the January Board meeting. VOPA will prepare draft focus areas for the Committee's review prior to the September meeting.

**Old Business:  
Retreat Planning**

Angela Thanyachareon shared that she and Colleen Miller met with the facilitator, Sara Singhas, and discussed their vision for the retreat. She added that the facilitator will review Board minutes and policies. A copy of the most recent Board survey was also provided. She added that the facilitator would like to conduct a survey of Board members to help develop a more substantive Board retreat.

The Board discussed possible dates for the July meeting and retreat, including feedback provided by Board members of the options, and selected July 17-18, 2011.

**Reports:  
PAIMI Council**

Michael Newcomb, Council Chair, highlighted the PAIMI Council meeting held on January 8. He extended a welcome and thanks to Governing Board liaisons and explained this is a demonstration of two-way communication between the Council and Board. He shared that the Council has recently gained two new members, both former members of the Council, and that they continue to seek additional members. He stated that they will complete the process of reviewing the Council bylaws for revision.

**• Disabilities Advisory Council**

Linda VanAken, Council Vice Chair, shared that the DAC continues training and the Council finds that absolutely invaluable. The Council continues to seek new members. She expressed appreciation to the Board members for attending Council meetings.

**Litigation**

Colleen Miller called the Board's attention to the Litigation Report and discussed updates on cases since the Report. She reminded Board members that the Supreme Court issued an opinion ruling in favor of VOPA in VOPA v. Stewart.

- **Regulation Development Under Lottery Settlement**

Jonathan Martinis, VOPA Managing Attorney, discussed the settlement in the VOPA v. Virginia Lottery case. He explained that a condition of the Agreement is that a recommendation would be made before the Governing Board that VOPA develop regulations under the Virginians with Disabilities Act. After discussion, Darrel Mason made a MOTION to decline the recommendation. Elizabeth Priaulx SECONDED the MOTION. Board members voted one opposed, one abstention, and seven in favor of the MOTION. The MOTION carried.

**Progress on Objectives**

Colleen Miller referred Board members to the Progress on Objectives report and discussed updates since the report.

There being no further business, Darrel Mason made a MOTION to adjourn. Charles Cooper SECONDED the MOTION and it carried unanimously. Bill Fuller adjourned the meeting at 1:58 p.m. The next meeting of the Governing Board will be Sunday, July 17, 2011 at a location to be determined.

/s/

July 17, 2011