

**Virginia Office for Protection and Advocacy
Richmond, Virginia
Board Meeting Minutes
July 19, 2005**

- Call to Order at 9:00:** Maureen Hollowell, Chair, called the meeting to order at 9:00 a.m.
- Welcome and Introductions:** Ms. Hollowell welcomed Board members and noted that Dr. William Fuller, the Board's newest member, could not attend due to a scheduling conflict. Ms. Hollowell also noted that Board member Dink Shackelford is unable to attend due to his preparation for the Virginia Bar Exam. Board members and staff introduced themselves.
- Members Present:** Barbara Barrett, Brent Brown, Ray Burmester, Michael Cooper, Waja Grimm, Chris Harrison, Maureen Hollowell, Susan Kalanges, Rita Kidd, Elizabeth Priaulx
- Members Absent:** William Fuller, Daaiyah Rashid, Dink Shackelford
- Staff Present:** Sherry Confer, Colleen Miller, Lisa Shehi (Pam Branch, Gary Conover, Jonathan Martinis, and Annette Sannuti during discussion of FY 06 Focus Areas)
- Guest Present:** Colleen Bryant joined the meeting as an observer at 1:15 p.m.
- Legal Rights Training (9:00):**
- **Confidentiality** Gary Conover, VOPA Managing Attorney, presented on Confidentiality. Mr. Conover focused on three areas: why confidentiality must be observed; the provisions that govern confidentiality; and an example of how confidentiality became an issue in court and how it was resolved.
- Mission Statement (10:00):** Michael Cooper read the mission statement.
- Adopt Agenda:** The Board members reviewed the agenda. Colleen Miller noted a correction to the agenda. The Department of Education Discussion Item was duplicated on the agenda and will be covered under New Business as will the discussion item concerning Medicaid. Barbara Barrett made a MOTION to accept the agenda as revised. Waja Grimm seconded the MOTION and the motion passed unanimously.
- Approval of April 26, 2005 Minutes:** The following changes were noted to the April 26, 2005 draft minutes:
- Susan Kalanges noted an addition to the Operating Policies and Procedures to state "If Board members request to see the implementation steps, they may do so."
 - Chris Harrison noted a change in spelling from *Ritchey* to *Ritchie* as the PAIMI Council guest.
 - Mr. Harrison also noted a change based Robert's Rules of Order. Mr. Harrison stated that the reference to "call the question" is appropriately referred to as "move the previous question."

- Barbara Barrett voiced concern over the posting of draft minutes on the VOPA website. Ms. Miller noted that it is a Freedom of Information Act requirement that minutes of the meeting must be posted within ten days of the meeting and that the VOPA Board minutes are not finalized until the following Board meeting. Ms. Hollowell suggested that all Board members be copied, with a “respond by date” when the draft minutes are e-mailed to her for review.

Waja Grimm made the MOTION to approve the minutes as amended above. Susan Kalanges seconded the MOTION and it passed unanimously.

Public Comment (10:15): There was no public comment offered.

Announcements: Michael Cooper noted a recent national housing discrimination suit which included seven multi family housing units in Fairfax County and four in Arlington County. Mr. Cooper noted that the suit referenced more than 70 multi-family housing units nationally, of which eleven are in Virginia. Mr. Cooper noted that his purpose in bringing this issue to the Board is to determine whether, under the existing Goals and Focus Areas, VOPA could publicize the settlement in a way to underscore to builders that they are required to be in compliance with the ADA and Fair Housing Act.

Ms. Hollowell noted the following meetings:

- Virginia Medicaid Network - August 19
- Legal Advocacy Center training on IDEA 2004 September 17 at the University of Richmond
- Advocacy group of the Medicaid Waiver Network – Week of August 9

Ms. Hollowell also noted that she would suggest an agenda item for a future meeting be the issue of renovating the state institutions.

Old Business:

- **Priority Setting – Focus Areas for 2006**

After a general discussion about the future work of the agency, Colleen Miller distributed a handout listing the focus areas staff have identified as suggestions for the Board to consider. Ms. Miller noted that there are occasions when cases are opened outside of the stated Goals and Focus Areas. Chris Harrison suggested that an opening statement address the opening of cases outside of the Goals and Focus Areas. Working from the staff list, the Board adopted the following focus areas:

Goal: People with Disabilities are Free from Abuse and Neglect

Staff proposed the following Focus Areas:

- Deaths with probable cause
- Abuse and neglect in community settings
- Physical abuse in MH/MR institutions
- Physical abuse in juvenile facilities
- Psych bed shortage in community
- Psych treatment in jails
- Completion of ongoing work

After discussion, Mr. Brown made a MOTION to approve the Focus Areas for the first goal as follows:

- Deaths where there is probable cause to believe abuse or neglect occurred
- Abuse or neglect in community settings
- Abuse or neglect in institutional settings
- Physical abuse in juvenile facilities
- Psychiatric bed shortage in communities
- Psychiatric treatment in jails
- Completion of ongoing work

The MOTION was seconded by Ray Burmester. The vote was seven in favor, two opposed. The MOTION passed by majority.

Goal: Children with Disabilities Receive an Appropriate Education

Staff proposed the following Focus Areas:

- Denial of eligibility due to lack of or inappropriate evaluations and assessment
- Children who have been (or are at risk of being) suspended due to inadequate Behavioral Intervention Plans or Functional Behavioral Assessments
- AT in schools
- TA to private bar and others re: IDEIA
- Completion of ongoing work

After discussion, Barbara Barrett made a MOTION to approve the Focus Areas under the Goal of Education as presented. Ray Burmester seconded the MOTION and it was approved by unanimous vote.

Goal: People with Disabilities Have Equal Access to Government Services

Staff proposed the following Focus Areas:

- Geriatric MH programs
- Polling places
- Services and supports to enable people to move to the community
- Appropriate TBI supports in education, employment, and public service
- Logo and lottery
- Completion of ongoing work

Jonathan Martinis explained that “Logo” is the “shorthand” language used by the Virginia Department of Transportation (VDOT) with regard to the listings on exit signs along interstates by various entities to solicit business. By statute, the state cannot contract with businesses who discriminate. Some of the businesses using the “Logo” service have been found to be inaccessible.

After further discussion, Michael Cooper made the MOTION to approve the Focus Areas for this Goal as presented. Barbara Barrett seconded the MOTION and it passed by unanimous vote.

Goal: People with Disabilities Live in the Most Integrated

Environment Possible

Staff proposed the following Focus Areas:

- Service animals in public accommodations
- Discharge plans in state MH/MR facilities
- Alternative decision making methods
- Off-campus activities for TC residents
- Inaccessible retail settings

Chris Harrison asked for clarification of the third Focus Area. Sherry Confer, Policy Director, noted that VOPA has obtained a grant from the Virginia Board for People with Disabilities for alternatives to guardianship.

After further discussion, Michael Cooper made a MOTION to approve the Focus Areas under the Integration goal with the addition of including nursing facilities funded by Medicaid in the second Focus Area. Ray Burmester seconded the MOTION.

After discussion, Mr. Cooper withdrew the addition of nursing facilities, and MOVED to accept the Focus Areas as written. Mr. Burmester agreed and seconded the MOTION. The MOTION passed unanimously.

Goal: People with Disabilities are Employed to their Maximum Potential

Staff proposed the following Focus Areas:

- Vocational training in training centers
- Barriers for social security
- Supported employment
- Maximized employment for VR clients
- Employment clinic

Waja Grimm made a MOTION to accept the Focus Areas with the wording of the first Focus Area changed to “Vocational training for training center residents.” Rita Kidd seconded the MOTION. After further discussion, the MOTION passed by unanimous vote.

Goal: People with Disabilities Have Equal Access to Appropriate and Necessary Health Care

Staff proposed the following Focus Areas:

- AT through insurance
- 1619(b) and Buy-in
- Medical care for residents of training centers and waiver homes
- Medicaid appeals for waiver and EPSDT issues

After discussion, Elizabeth Priaulx made a MOTION to accept the Focus Areas as written. Waja Grimm seconded the MOTION and it passed by unanimous vote.

Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA’s Services

Staff proposed the following Focus Areas:

- Underserved communities
- CAP @ CILS
- Eastern Shore

- Spanish-speaking
- Law enforcement
- Collaboration with MH consumer groups
- Special education for foster care children
- Employment for people with MI

Ms. Priaulx made a MOTION that “Medicare Part D” be added. Susan Kalanges seconded the MOTION. The Board vote was 3 in favor, 4 opposed, and 1 abstention. The MOTION was defeated.

Michael Cooper made a MOTION to approve the Focus Areas as presented and including the addition of discharge rights in nursing homes. Waja Grimm seconded the MOTION.

After further discussion, the Focus Areas were adopted by unanimous vote.

The Board observed a working lunch during the Priority Planning process.

- **Ombudsman Program**

Brent Brown, chair of the *ad hoc* Ombudsman Program Committee, noted that the Committee reviewed various options for pilot program subjects. The consensus of the Committee was to focus the pilot Ombudsman Program on early childhood (birth to 3 years of age).

A proposed Ombudsman Program budget was distributed, noting that a few of the line items will be increased, but the total budget will remain under \$150,000 annually and that it will be a two-year budget.

Mr. Brown made a recommendation from the *ad hoc* Ombudsman Program Committee to adopt the goal of presenting to the Governor a budget and, if necessary, presenting the legislature a budget amendment for the establishment of the pilot Ombudsman Program with the budget of \$150,000 or less. There was a unanimous vote by the Board members to support this recommendation.

Ms. Miller requested that this Committee continue in order to develop a plan to present the program to the General Assembly. The Board agreed.

- **Retreat Follow-up**

Barbara Barrett distributed a document addressing committee structure based on the Retreat. She suggested that the committees recommended by the Retreat Follow-up Committee be developed as Special Committees to exist for a limited time.

As Special Committees, there is no need to amend the bylaws. The bylaws state that the Board chair shall appoint individuals to the Special Committees. Ms. Hollowell recommended the following committee assignments:

- Internal Policy – Susan Kalanges, Chair
- *ad hoc* Ombudsman Program – Brent Brown, Chair
- Retreat Follow-up - Barbara Barrett
- Public Policy Committee – Ray Burmester, Chair
- Finance and Resource Development Committee – Michael

- Cooper
- Priorities and Public Awareness – Elizabeth Priaulx

Ms. Hollowell noted that additional assignments to these committees will be made after discussion with Board members. She further requested that Barbara Barrett and the Retreat Follow-up Committee determine the structure of a strategic planning process.

New Business:

- **Calendar for 2006**

The following dates were selected for 2006 Board Meetings:

January 20, Richmond
 April 25, Staunton (location to be determined)
 July 20, Richmond
 September 26, Richmond

- **Budget – FY 06**

Ms. Miller noted that the FY2006 budget has been presented to the Department of Planning and Budget, with the understanding that amendments may be required subsequent to this Board meeting.

Barbara Barrett made a MOTION to approve the FY 2006 budget as presented. Waja Grimm seconded the MOTION and it was approved by unanimous vote.

- **Department of Education Issues (IDEA regulations; Schools for the Deaf and Blind)**

Maureen Hollowell presented the discussion issue about the Department of Education making changes without using the regulatory process as is required. Barbara Barrett made a MOTION to take a position that existing state regulations be enforced by the Virginia Department of Education. Michael Cooper seconded the MOTION. The vote was 7 in favor, 0 opposed, and 2 abstentions. The vote passed by majority.

Elizabeth Priaulx presented for discussion the upcoming consolidation and expansion of two Virginia Schools for the Deaf and Blind. Ms. Hollowell disclosed that she was appointed to the commission that oversees the two schools. She noted that the commission does not oversee the consolidation and expansion, however, she recused herself from any discussion of the issue.

Ms. Priaulx presented a second item for discussion regarding a National Governor’s Association internal policy issued in part by Governor Mark Warner regarding Medicaid reform. The policy includes a law that includes language favoring community services and the need to ensure that Medicaid remains available. Ms. Priaulx read four points addressed in the Discussion Memo for inclusion in the letter. Ms. Priaulx made a MOTION that the Board write expressing VOPA’s support of the Medicaid program and the agency’s recognition of Governor Warner for taking the lead in this reform. Barbara Barrett seconded the MOTION for further discussion. After further discussion, Waja Grimm moved the previous question. Ms. Barrett withdrew her second. There being no second, no vote was taken.

Reports

- **Chair**

Ms. Hollowell noted that the Executive Committee met on May 31 to discuss the committee appointments that need to be made; contents of litigation reports. new travel regulations (change to per diem),

importance of having on the finance committee someone with state budget experience, and the retreat follow-up.

- **PAIMI Council** Chris Harrison noted that the PAIMI Council met on May 12, recommending a new Council member to the Board chair for approval. The next meeting of the PAIMI Council will be August 11 in Charlottesville.
- **Disability Advisory Council (DAC)** Sherry Confer noted that at the last meeting, Council members worked on focus areas and identified members who want to serve on board committees. She further stated that both the PAIMI and DAC members discussed the Department of Mental Health, Mental Retardation, and Substance Abuse Services ((MHMRSAS) human rights regulations review process. The next DAC meeting will be held July 27 in Richmond.
- **Director** Ms. Miller noted that the Center for Mental Health Services will be conducting a monitoring and compliance review of VOPA August 9-11. There will be an entrance interview on August 9 and Brent Brown will represent the Board during that interview. The exit interview will be on August 11 following the PAIMI Council meeting in Charlottesville. Barbara Barrett will attend for the Board. The review team will attend the PAIMI Council meeting.

Ms. Miller noted that Dee Vance, Administrative Assistant, has resigned from VOPA to pursue a teaching career in the special education system. She further noted that a new Administrative Assistant – Kathy Nious – has joined the Virginia Beach office. VOPA currently has an individual through a temporary agency performing reading, driving, and administrative duties.

Additionally, Ms. Miller noted that VOPA is in the final negotiation stages of funding for an Alternatives to Guardianship grant.

- **Progress on Priorities** Ms. Miller noted that VOPA is in the process of negotiating an agreement with Adult Protective Services which will enable VOPA to obtain a report of every incident of suspected abuse they receive.
- **Litigation** Ms. Miller noted two specific pieces of litigation:
 - Bates vs VOPA - the Freedom of Information case Gary Conover referenced in his training.
 - Price vs DMAS – A Medicaid appeal case involving the denial of assistive technology.

Committees

- **Finance** The Board reviewed financial information as provided prior to the meeting. Ms. Miller noted that the reflection on page 3-3 of two grants under Assistive Technology reflect different funding cycles and is not an error.

- **Policy**
 - **Conflicts**

Ms. Kalanges distributed a handout with updated wording for a Board policy regarding Conflicts of Interest. Mr. Harrison noted that a refusal of voting rights based on a conflict of interest is contrary to Robert's Rules of Order. Ms. Miller suggested that the Policy contain a statement indicating that this policy supplants any limitations found in Robert's Rules of Order. The Committee brought the policy before the Board for approval. The policy was approved by a vote of six in favor and one opposed.

Ms. Kalanges noted that the conference call discussed at the April Board meeting between Colleen Miller and the CEO of the Voice of the Retarded, originally planned to be held during the Policy Committee Meeting, has been rescheduled for September.

The Policy Committee presented operating policies which will be voted on at the next meeting. Policies that will be voted on in September are bloodborne pathogens, political activity, use of experts, and a new policy on employee accommodations. The employee accommodations policy will be reviewed after one year to determine if it is meeting the needs of the employees.

- **Incidents in the Community**

Mr. Burmester commented that he is in support of the work with Adult Protective Services (APS). Mr. Burmester asked if there had been any progress on trend analysis. Ms. Miller noted that she would ask Gary Conover to follow up with Mr. Burmester regarding the work being done in trend analysis.

- **Priorities**

Ms. Prialx asked if there were any suggestions on ways to market the Priorities. There were no further comments or discussion.

There being no further business, Ray Burmester made a MOTION to adjourn. The MOTION was seconded by Michael Cooper and approved by unanimous vote of the Board. The meeting adjourned at 4:42 p.m. The next meeting of the VOPA Board of Directors will be September 20, 2005.

FINAL MINUTES:

September 20, 2005