

**Virginia Office for Protection and Advocacy  
Richmond, Virginia  
Board Meeting  
FINAL MINUTES  
September 29, 2010**

<b>Call to Order</b>	Bill Fuller, Chair of the Virginia Office for Protection and Advocacy Governing Board, called the meeting to order at 9:03 a.m. He welcomed all present and asked that Board members, Staff, and Guests introduce themselves.
<b>Members Present</b>	Charles Cooper, Bill Fuller, Chris Harrison, Susan Kalanges, Rita Kidd, Ali Parker, Elizabeth Priaulx, Lisa Ritchie, Angela Thanyachareon
<b>Members Absent</b>	Maureen Hollowell, Darrel Mason, Mike Newcomb, Daaiyah Rashid
<b>Staff Present</b>	Sherry Confer, Colleen Miller, Lisa Shehi
<b>Guests Present</b>	Don Lemond, Department of Risk Management (for portions)
<b>Board Training and Discussion Board Liability</b>	Don Lemond, Director of the Commonwealth's Division of Risk Management (DRM), discussed the role of the DRM providing liability protection for VOPA and VOPA's Board. He distributed information regarding the programs overseen by the DRM and explained the coverage provided to individuals while acting in their capacity as VOPA Board members.
<b>Mission Statement</b>	Charles Cooper read the Mission Statement.
<b>Adopt Agenda</b>	The agenda was adopted unanimously with no corrections or changes.
<b>Approval of April 30, 2010 Minutes</b>	Bill Fuller referred Board members to the April 30, 2010 Minutes for approval. Charles Cooper MOVED approval of the Minutes. Chris Harrison SECONDED the MOTION. With no discussion, the minutes were unanimously approved.
<b>Approval of July 28, 2010 Minutes</b>	No corrections or revisions noted, Charles Cooper made a MOTION to approve the July 28, 2010 Minutes. Susan Kalanges SECONDED the MOTION and the Minutes were approved by unanimous vote.
<b>Public Comment</b>	No public comment was offered.

## **Executive Director's Report**

Colleen Miller referred Board members to the printed report and shared that VOPA received an award for a subcontract in the amount of \$5,000.00 with the Department for the Aging.

She discussed that the statute which created the Virginia Office for Protection and Advocacy gives VOPA the power to promulgate regulations. She suggested that a training at a future Board meeting in this process may be beneficial.

She also shared that individual legislators have been invited to visit and learn more about VOPA and asked Board members to contact and invite their legislators.

Additionally, Colleen Miller advised that a recent review by the Comptroller noted recommendations for process improvement, but found that VOPA is in compliance of regulations. Elizabeth Prialux offered a MOTION to acknowledge the success by letter to VOPA fiscal staff. Chris Harrison SECONDED the MOTION and it was approved by unanimous vote of the Board. Elizabeth Prialux will draft a letter.

## **Executive Committee Retreat Planning Committee**

Bill Fuller stated that the Executive Committee met on September 10. The primary subject of the meeting was discussion of the proposed FY2011 Retreat. Angela Thanyachareon shared the results of the FY2011 Board Retreat Survey as follows:

- Preference for one and one-half day retreat
- Board members and VOPA Management participation
- Professional facilitator

Bill Fuller asked that the Retreat Planning Committee explore and determine the most appropriate potential facilitators and determine the best dates for a Retreat.

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

Charles Cooper noted that the Finance and Resource Development Committee met September 28, 2010 and reviewed the financial reports through August 31. He noted that no exceptions were identified in the review and presented the Board with a certification of the review. This report being presented by the Committee, no SECOND was required. The report was approved by unanimous vote. Bill Fuller asked the Finance Committee to review whether Board

members should receive more detailed financial reports.

Charles Cooper shared that the Committee continues to review revisions to the VOPA Accounting Manual.

The Committee will meet on January 28, 2011.

## **Internal Policy Committee New Policies**

- **Collaboration with Other Entities**
- **Record Retention**

Chris Harrison noted that the Committee met on September 28, 2010 with no quorum present. The Committee presented the following policy statement to the Board for first review:

### Policy 1.9 – Collaboration with Other Entities

The Virginia Office for Protection and Advocacy (VOPA) will collaborate with other entities to maximize the benefit of existing advocacy and other services for VOPA stakeholders to the extent that such collaboration is within VOPA's annual goals, focus areas, and objectives and to the extent that it advances the rights of people with disabilities, is in support of the mission of VOPA, and there is no duplication of services.

### Policy – Record Retention

The Virginia Office for Protection and Advocacy will ensure that all necessary records and documents are sufficiently protected and maintained and ensure that records are destroyed according to established procedures. VOPA record retention schedules and procedures are based on State and Federal policies and funding stream requirements for record management.

These policy statements will be presented to the Board for adoption in January 2011.

- **Policy 1.7 – Service Disagreement**

On behalf of the Committee, Chris Harrison recommended adoption of Policy 1.7 – Service Disagreement as follows:

### Policy 1.7 – Service Disagreements

The Virginia Office for Protection and Advocacy (VOPA) will resolve disagreements about eligibility for services or the extent of or kind of services to be provided to the maximum extent possible by providing applicants and clients opportunities to express their disagreement with decisions made by VOPA. VOPA has a process for resolving the disagreement that is

designed to ensure that persons eligible for services are provided full access to the services of the Office. This policy only addresses decisions VOPA makes with regard to providing services.

No SECOND was required. The policy was unanimously adopted with no discussion.

### **Policy 5.3 – Complaints**

On behalf of the Committee, Chris Harrison recommended adoption of Policy 5.3 – Complaints as follows:

#### Policy 5.3 – Complaints

The Virginia Office for Protection and Advocacy (VOPA) addresses complaints from the public about VOPA in a timely and sensitive manner. This policy does not address decisions VOPA makes about whether to provide services or the extent of or kind of services to be provided

The Board voted unanimously to adopt.

In further action, Bill Fuller appointed Angela Thanyachareon to the Internal Policy Committee.

### **Public Awareness and Goals Committee**

#### **FY2011 Objectives**

Elizabeth Priaulx, Committee Chair, noted that the Public Awareness and Goals Committee met on September 10, 2010 to finalize the recommendation for adoption of the Objectives as presented in the Board package. Subsequent to that meeting, VOPA staff presented proposed changes to the Objectives as follows:

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

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

2. Investigate ten (10) reports of psychoactive medication being administered in violation of the individual's rights. Obtain corrective action.
3. Investigate ten (10) reports of injury to a patient or resident at Department of Behavioral Health and Developmental

Services (DBHDS)-operated institutions for individuals with mental illness and intellectual disabilities where the injury reportedly took place while the patient or resident was receiving staff assistance. Obtain corrective action as appropriate.

4. Investigate the response of entities responsible for licensing, oversight, or investigation of ten (10) instances of death, serious injury, or allegations of abuse or neglect of individuals with disabilities in institutional settings. All investigations will seek corrective action, to include systemic reform, as necessary.

We request to combine the three objectives above into one, as follows:

Investigate the response of entities responsible for licensing, oversight, or investigation of twenty (20) instances of death, serious injury, or allegations of abuse or neglect of individuals with disabilities in institutional settings, with a focus on psychoactive medication being administered in violation of the individual's rights or where the injury reportedly took place while the patient or resident was receiving staff assistance. All investigations will seek corrective action, to include systemic reform, as necessary.

This would mean ten fewer investigations than originally proposed, and would mean that all investigations would address whether oversight agencies are fulfilling their responsibilities.

- B. In addition, we request to drop objective 3.1.4 (see below). This objective was inadvertently left in the proposal. It had been placed there as a reminder to management that we needed to develop a significant voting outreach project, which we did (survey every registrar's office). During FY 2011, when there is no major voting opportunity, it does not make sense to do outreach to nursing homes, in our opinion. We will very likely propose objectives related to nursing home outreach for FY 2012, when there

will be a major national election.

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

Focus Area 1: Access to Vote for Persons with Disabilities

4. Identify two (2) regions of the Commonwealth and provide presentations regarding voter rights and responsibilities at nursing homes located in those areas.
- C. We request to add to Objective 4.2.10 “the Virginia Waivers Group.” This is a group of advocates and others who monitor and respond to proposals that affect Medicaid waivers. We are not a member of this group, but we do monitor the group in order to better understand proposed changes to Medicaid programs that may affect our constituents.

Colleen Miller shared that VOPA was directed to withdraw the case Arc vs. McDonnell by the Arc of Virginia. Pursuant to that direction, she requested that the following Objective be removed from consideration. She explained that the request from the Arc of Virginia was not received in time to be considered by the Committee and that residents who seek VOPA’s assistance in discharge from Southeastern Virginia Training Center will be served under other Objectives.

**Goal 4 – People with Disabilities Live in the Most Appropriate Integrated Environment**

Focus Area 2 – Right to Timely Discharge from State Facilities

Objective 6 – Continue to represent all residents of Southeastern Virginia Training Center who do not object to discharge, through the Arc v. McDonnell litigation.

The Board discussed the Objectives. On behalf of the Committee, Elizabeth Prialx made a recommendation to adopt the objectives as presented and amended. No SECOND was required and the Objectives were adopted by unanimous vote of the Board.

Council met on September 18 in Richmond. The Council discussed the proposed FY2011 Objectives. She shared that the Council elected the following officers:

Chair – Michael Newcomb  
Vice Chair – Ali Parker  
Secretary – Van Johnson

### **Disabilities Advisory Council**

Lisa Ritchie stated that the Disabilities Advisory council has not met since July. She shared that the Council elected the following new officers:

Chair – Lisa Ritchie  
Vice Chair – Linda Van Aken

The next scheduled meeting is October 8, 2010.

### **Litigation**

Colleen Miller referred the Board to the Litigation Report provided in the Board package and discussed recent developments in several cases. Notably, VOPA has been directed to withdraw the appeal in Arc. v. Kaine (now Arc v. McDonnell) by the Arc of Virginia.

Additionally, in Holley v. ESH the client was recently awarded direct payment of \$159,000 in discharge assistance funds and discharge date for October 2010.

In Winborne v. Virginia Lottery, litigators recently completed two days of mediation with a settlement outcome that will bring significant changes throughout the state.

Finally, the case of VOPA v. Steward (formally VOPA v. Reinhard), in which the issue is whether a state agency can sue another state agency, will be heard before the United States Supreme Court on December 1, 2010.

**Progress on Objectives**

Colleen Miller referred the Board to the written report provided in the Board package. She shared that Central Virginia Training Center was recently without water due to a massive water main break. Water was heated in microwaves for cooking and sanitation during this incident.

Additionally, she noted that Hancock Geriatric Center at Eastern State Hospital was decertified by the federal regulatory agency.

There being no further business, Bill Fuller adjourned the meeting at 1:14 p.m. The next meeting of the Governing Board will take place January 29, 2011.

**FINAL MINUTES**

/s/

January 29, 2011