

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY (VOPA)

**PROTECTION AND ADVOCACY FOR INDIVIDUALS
WITH MENTAL ILLNESS (PAIMI)
ADVISORY COUNCIL MEETING**

VOPA Office – Richmond, VA

**DRAFT MINUTES
August 13, 2009**

Members Present	Elaine Caudill, Van Johnson, Yvette Lane, Mike Newcomb (Vice-Chair), Ali Parker, CW Tillman (Chair)
Members Absent	Kathy Harkey, Steven Hornstein, Sandra Musselwhite, Edwina Shore
Guests Present	Susan Kalanges (VOPA Governing Board member)
Staff Present	Sherry Confer, Clyde Mathews, Kim Ware For portions: Jenny Heilborn, Kim Mendella
Call to Order / Welcome / Introductions	CW Tillman called the meeting to order and asked everyone at the meeting to introduce themselves.
Public Comment	No public comment offered.
Staff Presentation – VOPA Investigations	Jenny Heilborn, Disability Rights Advocate at VOPA, informed the Council about how VOPA receives data from the Department of Behavioral Health and Developmental Services (DBHDS). Ms. Heilborn has been reviewing the data from the 16 different State Operated Facilities in Virginia. Comparison is difficult as there are differences in facilities (ex. size), population (ex. age), client turnover, and how information is labeled. Facilities vary in the type and detail of the information collected. DBHDS requires that facilities track basic information such as census and types of restraint. Seclusion and restraint is not a treatment but a result of treatment failure and can make symptoms worse especially if the individual has a history of trauma. There should be a therapeutic alliance between the care giver and the patient and use of seclusion and restraint can hurt that bond. Two

facilities in Virginia received a grant for the Substance Abuse and Mental Health Services Administration (SAMHSA) to reduce seclusion and restraint. There has been an increase in the use of a “calming room,” however, patients should be able to enter and the leave the room voluntarily. VOPA is educating facilities about what seclusion and restraint really is: anything that restricts the patient’s movement. The data shows that there is a trend with the number of restraints decreasing but the number of seclusion episodes is rising.

Ali Parker asked if cameras and videos are used in the facility to find out what happened before, during and after any incident that led to restraint. Ms. Heilborn does not know about the use in all Virginia state operated facilities. Cameras can be very intrusive for residents at the facilities. VOPA is trying to address systemic failures such as not enough training, not enough staff, not enough money, not enough options, and not enough individualized care. Staff may resort to seclusion and restraint if there are not enough of resources in an effort to control an entire wing of a facility.

Executive Director’s Update

Progress on Objectives

Clyde Mathews, VOPA Managing Attorney, addressed the Council to talk about the Progress on Objectives report. Mike Newcomb asked about the presentation by Dana Traynham from the May 2009 meeting about Advanced Directives. Mr. Newcomb suggested a Train-the-Trainer training about Advanced Directives where the trained facilitator can use their knowledge to help individuals in the community to develop their own Advanced Directive. Mr. Mathews commented that this is a suggested objective for the 2010 fiscal year for VOPA to work with self advocate facilitators to develop a training on Advanced Directives.

Litigation Report

Mr. Mathews discussed VOPA v. Reinhard case about access to peer review materials. There have been similar cases in the district courts of New Jersey and Indiana. Mr. Mathews also discussed the Lottery case and how the Supreme Court stated that the Lottery is a state program and needs to be accessible to the public.

Review of May 2009 Meeting Minutes

Council members reviewed the minutes from the previous meeting in May. Members clarified the discussion about how to make the meeting packets more informative. Elaine Caudill made a MOTION to accept the minutes as amended. Van

Johnson SECONDED the MOTION to accept the minutes. The MOTION carried unanimously.

Board of Director's Report

Susan Kalanges addressed the Council and stated that the Governing Board Chair and Vice-Chair new terms took effect July 1. CW Tillman became the new Chair of the Council Relations and Public Policy Committee. Charles Cooper is the new Chair of the Finance Committee. The Executive Committee made changes to the Nominating Committee.

Ms. Kalanges mentioned the proposed January meeting will be on Saturday, January 23 and the April meeting will be on April 30 potentially in Virginia Beach. The Board discussed having at least one meeting a year on a Saturday to reduce the number of days members have to take off from work to attend VOPA meetings.

Governing Board Committee Reports

Finance Committee – Yvette Lane
The Board passed the budget that the committee reviewed. Ms. Confer stated that either Bill Fuller, former Finance Committee Chair, or Charles Cooper will attend the next PAIMI Advisory Council meeting to show the Council how the budget is tied back to the VOPA FY10 Objectives.

Council Relation and Public Policy Committee – CW Tillman
Mr. Tillman stated that the procedure to appoint new members has been approved by the Board and is effective. Mr. Tillman presented recommendations to the Board on behalf of the Committee for Joint Board and Advisory Council meetings and to have weekend meetings. Both recommendations would reduce the amount of time taken off work to attend VOPA meetings.

Public Awareness and Goals Committee – Mike Newcomb
The committee approved the focus areas for the next three years. Ms. Confer added that staff requested to fund two focus areas with private funds as a means to serve more individuals. One is for a Special Education Clinic and the other focus area deals with self-advocacy.

Working Lunch

Mr. Mathews introduced the work session and briefly discussed what the role of the PAIMI Advisory Council is in objective development.

Work Session – Annual Input into

Goal: People with Disabilities are Free from Abuse and Neglect

VOPA Work – Objectives

Mr. Newcomb likes how the goal is written as it is proactive in the sense that there should be a system in place to prevent abuse and neglect. Mr. Mathews stated that VOPA uses Critical Incident Report (CIR) data obtained from the state operated facilities to look for potential trends. Kim Ware stated that CIR reports are for only made for injuries that require a certain level of medical treatment that may or not be a result of abuse or neglect. VOPA can then request copies of the facility's internal abuse and neglect investigations. Ms. Lane questioned whether non-medical cases of abuse and neglect are reported. Ms. Ware stated that the VOPA Statue requires facilities to report serious injuries and abuse and neglect are only investigated if there is a serious injury. Ms. Lane asked if VOPA believes there psychological abuse occurs in the facilities as sometimes serious injuries are the result of psychological abuse. Ms. Confer mentioned the morning discussion where the Council learned that clients with a history of abuse that seclusion and restraint practices can be detrimental to their recovery, emotional stability and to their mental health. Ms. Confer stated that at state facilities there is very little individual therapy but a lot of group sessions where clients learn psychosocial skills like how to manage a checkbook or learning what your triggers are for escalation. These group sessions are not therapy. Ms. Caudill talked about the insight she acquired from patient satisfaction surveys given to patients as they are discharged. Ms. Parker spoke about her experience with such surveys as sometimes staff completes the surveys themselves or the patient is not given any privacy. Ms. Caudill stated that the patient should start with the Patient Advocate. Mr. Mathews stated that the Patient Advocate is a very rare sight in state facilities as currently the Patient Advocate has many responsibilities and may only spend a small portion of their time in the facility. This is a systemic problem of limited resources. Ms. Caudill asked if as the PAIMI Advisory Council could advocate that there should be a one full time Patient Advocate at every facility. The staff informed the Council about how to obtain data from Freedom of Information Act (FOIA) requests and discussed potential next steps.

Ms. Confer read notes from PAIMI Advisory Council members who could not attend the meeting today but wanted to have a say in the work session. These comments mirrored previous discussion of no more forced restraints or injections. The Council agreed that the use of inappropriate medication in situations when patients explicitly stated their choice against

the use of certain medications.

Focus Area: Abuse or Neglect in Community Settings

Council members wanted to know who the oversight bodies for community settings were. Ms. Parker wanted to know why it was not mandatory for all facilities that help people with disabilities to report CIR data to VOPA similar to what state operated facilities are currently are required to do. Private facilities do have to report to Adult Protective Services (APS) but not to VOPA. Ms. Parker stated that it your civic duty to report to authorities child abuse and that should be the case for the abuse of any person with a disability. Mr. Mathews stated that it is a civic duty but not a legal duty to report abuse. Council also discussed issues about discharge planning from state facilities and how it needs to meet the needs of the individual especially in regards to transportation.

Focus Area: Abuse or Neglect in Institutional Settings

Ms. Caudill spoke of stories of patients being denied medication when they enter jail. Ms. Ware stated that drug formularies and funding differed by locality and there are delays when doctors in the jails have to consult with the inmate's doctor and then there are issues if the prescribed medication is not on the formularies. Ms. Lane says that police need to be trained to thinking of alternatives such as de-escalating the situation, crisis intervention and going to the psychiatric hospital instead of jail. Mr. Mathews said that often people who come into contact with the police do not have community programs and that is why they decompensate in the first place. There are currently hundreds of people in jail because of the lack of space in the hospitals to obtain treatment to restore their competency. The current cycle is that the person goes to jail, goes to hospital, person is treated and competency restored, sent back to jail and then seen before the judge. This whole process can take a long time and may be much longer than the sentence if the person was convicted of a crime.

Jack Brandt, VOPA Disability Rights Advocate, spoke to the Council about the Mental Health Block Grant (Federal Grant) and the alleged potential threat of losing this funding in Virginia. If the General Assembly cuts mental health funding by 15% this jeopardizes the Block Grant as the state match will not be met. This means a substantial amount of money could be at stake. The Block grant supports peer run programs in Virginia. Mr. Tillman added that these peer run

programs are more successful than traditional programs in his opinion.

Other Business

- **CRPP recommendations**

Mr. Tillman spoke in detail about the recommendations he put forward to the Governing Board at the last meeting in July. VOPA staff are currently working on the cost estimations and logistics that should be ready for the Board next month.

Mr. Tillman then talked about Advisory Council member recruitment and the idea that came from the April 2008 Board retreat where it was suggested to have a designated seat for different consumer advocacy groups. Members said that there would be a lack of continuity and understanding of meetings if the groups did not send the same person to each meeting. Mr. Newcomb suggested that when the consumer advocacy groups have meeting that one of the PAIMI Advisory Council members attend and talk about the benefits of being on the PAIMI Advisory Council. Ms. Lane and Ms. Parker really like the idea of a PAIMI Advisory Council member description that they could take to other consumer advocacy group meetings.

- **Council Officers**

Mr. Tillman stated that there was an Officer vacancy on the Council for the position of Secretary. Mr. Tillman described the duties of the Secretary position to the members of the Council. Ms. Caudill made a MOTION for Van Johnson to fill the roll of Secretary for the PAIMI Advisory Council. Ms. Lane SECONDED the MOTION. The MOTION carried unanimously.

Mr. Tillman stated that the Nominations for 2010 Officers will take place at this meeting and the final vote will occur at the November meeting. Mr. Tillman opened the floor to accept nominations for the positions of Chair, Vice-Chair and Secretary.

Ms. Caudill made a MOTION for CW Tillman to fill the roll of Chair for the PAIMI Advisory Council. Ms. Parker SECONDED the MOTION. The MOTION carried unanimously.

Ms. Parker made a MOTION for Mike Newcomb to fill the roll of Vice-Chair for the PAIMI Advisory Council. Ms. Caudill SECONDED the MOTION. The MOTION carried unanimously.

Ms. Caudill made a MOTION for Van Johnson to fill the roll of Secretary for the PAIMI Advisory Council. Ms. Parker SECONDED the MOTION. The MOTION carried unanimously.

- **Travel Voucher** Mr. Tillman reminded the Council to submit their travel reimbursement vouchers to Ms. Mendella.

Ms. Caudill made a MOTION to adjourn the meeting at 3:00 p.m. Ms. Parker SECONDED the MOTION. The MOTION carried unanimously.

Draft minutes

08/13/2009

Date

**Virginia Office for Protection and Advocacy
Mission Statement**

Through zealous and effective advocacy and legal representation, to: protect and advance legal, human, and civil rights of persons with disabilities; combat and prevent abuse, neglect, and discrimination; and promote independence, choice, and self determination by persons with disabilities.