

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY (VOPA)

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

VOPA Office – Richmond, VA

**FINAL MINUTES
February 12, 2009**

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| Members Present | Elaine Caudill, Kathy Harkey, Van Johnson, Yvette Lane, Sandra Musselwhite, Mike Newcomb (Vice Chair), Ali Parker, CW Tillman (Chair) |
| Members Absent | Edwina Shore |
| Guests Present | Steven Hornstein, Alison Hymes, Mendy Meeks, Pat Meyer (VOPA Governing Board member), Helen Nicholaou, Thomas Spurlock, Byron Stith |
| Staff Present | Kim Mendella <i>For portions:</i> LaToya Blizzard, Paul Buckley, Colleen Miller (Executive Director), Jenny Heilborn |
| Call to Order / Welcome / Introductions | CW Tillman called the meeting to order and asked everyone at the meeting to introduce themselves. Mr. Tillman made an additional change to the agenda by adding PAIMI Advisory Council By-Laws to the very end of the meeting under the heading of "Other Business." |
| Public Comment | Steven Hornstein addressed the Council by stating that Virginia has an excellent possibility of having one of the best mental health hospitals in the world. Mr. Hornstein stated that he has been in four Virginia State hospitals and staff have been very good, with the exception of some technicians and aides who can be a little rough. He believes that VOPA advocates work hard and conduct themselves in a very professional manner. However, he has not seen VOPA advocates work hard in reducing seclusion, restraint and forced injections, which he believes is a big problem in Virginia. Mr. Hornstein stated that he has been a victim of forced injections and now suffers side effects. He believes that anger is a normal emotion and clients in state and private hospitals should not be tied to the bed and have forced injections. Medicine should not be used as a punishment. He |

believes that these practices are not treatment but are torture. Mr. Hornstein stated that there should be better architecture and design at state hospitals so clients can calm down in bigger and open areas and not be shuttled to seclusion rooms. He stated that at the Northern Virginia Institute, clients are led to the courtyard if they are angry to calm down.

Mr. Hornstein would like to see VOPA and the PAIMI Advisory Council to take on the task of organizing the State to have meetings with hospital staff, universities, experts and consumers to talk about the crisis of abuse in Virginia. Mr. Hornstein finished off by stating that he was grateful to read that VOPA sued the state to get the names of people in state hospitals who were ready for discharge. He then distributed a reading list that he coauthored about different mental health conditions and recovery options.

**Review of November
2008 Meeting Minutes**

Mr. Tillman directed the Council members to the minutes from the last meeting in December. With no comments or changes, Mr. Tillman asked if there was a motion to accept the minutes. Sandra Musselwhite made a MOTION to accept the minutes as drafted. Elaine Caudill SECONDED the MOTION to accept the minutes. The MOTION carried unanimously.

**Executive Director's
Update**

Colleen Miller started her report by talking about the recent happenings of the 2009 Virginia General Assembly. There are a number of bills going through rapidly by the Supreme Court Mental Health Law Reform Commission. These bills are primarily clean up bills resulting from last year's bills that changed commitment processes and standards. There have been some good improvements to the commitment process such as a bill that allows somebody under an emergency custody order to be transported by family or friends to a hospital. This means that the person is not transported by police in handcuffs which is not good for mental health recovery. Another bill allows a person to designate someone to be notified if the person is admitted to a hospital. If you cannot name someone, there is a companion bill that states that a hospital may contact family unless you object to it. There may be potential for abuse if the bill does not comply with health privacy laws. There is a change with the Health Care Decisions Act that allows for the creation of Advanced Directives. Other states have created separate legislation for Psychiatric Advanced Directives. Virginia decided to work Psychiatric Advanced Directives into all health care decisions so the same document will contain decisions on end of life

care as well as psychiatric care. There are some troublesome provisions such as doctors can override the decisions. There is another provision that allows guardians to admit someone to a hospital and that person does not have to be a danger to themselves, others or property. There are some protections. There is a limit of ten days and the facility will have to accept the person. In other states, similar laws have been nicknamed the "Guardian Vacation Act." The Virginia Association of Community Service Boards is also concerned about this bill and will track the implementation for potential abuse. Ali Parker commented that from past experience, hospitals will not admit unless the person has harmed themselves. Ms. Parker believes that it should not have to get to a point where a person is hurting themselves to obtain treatment. Kathy Harkey asked if there was abuse in other states where there are similar laws. Helen Nicholaou asked what the definition of abuse in this situation was: is it more patients being dropped off or is it more complaints? Ms. Miller stated that VOPA will first look at how the law is being used before making a judgment. Ms. Miller stated that this might become a respite provision where if someone is caring for a person needs some additional help or time off. Sandra Musselwhite was very concerned about doctors overriding Advanced Directives. Ms. Miller agrees as this is a step backwards as VOPA has worked very hard helping people create Power of Attorneys. Power of Attorneys allow the person to consent to a variety of things such as what medication can and cannot be administered; who to contact about treatment options; allowing for research or not; etc. With changing the health care decision law, it will make Psychiatric Advance Directives legitimate and harder for hospitals to refuse to honor it. However, the law can dictate what you can and cannot have in the Advance Directive unlike the Power of Attorney document. Another very controversial provision is the law allows for an agent to consent to experimental medical treatment even if it will not benefit you. Alison Hymes was very against this provision as agents may feel bullied by doctors to consent to experimental treatment as doctors are viewed as experts. Ms. Hymes would like to see a separate check box on the form so people know what they are agreeing to. Ms. Miller stated that if this bill goes through, VOPA will make it a part of the training to alert people of these provisions.

Ms. Miller reported that the 2009 Virginia State Budget is still in the early stages. There is concern in the mental health community about the closing of the Commonwealth Center for

Children and Adolescents as well as the Adolescent Center at Southwestern Virginia Mental Health in June 2009. Both facilities are small and very short term. There is a very good chance that patients currently there will not be affected by the closure. This could be a good thing in that the local community will be pressured to identify resources to help children and adolescents with complex needs.

The 2009 Virginia State Budget will also include the creation of three to five additional PACT (Program of Assertive Community Treatment) teams. PACT team is a service-delivery model that provides comprehensive, locally based treatment to people with serious and persistent mental illness. What is unique about PACT teams is that they provide individualized services directly to consumers 24 hours a day, seven days a week, and will travel to where the patient is. Also included in the Budget is limited portability of the auxiliary grants. An Auxiliary Grant is an income supplement to Supplemental Security Income for certain individuals with disabilities residing in licensed Assisted Living Facilities (ALFs). VOPA would prefer people to the use auxiliary grant money to reside in a home of their choosing. The Budget changes the portability of the grant to be used by a limited number of people who have lived in an ALF for six months.

At the last Council meeting in November 2008, Ms. Miller talked about VOPA's budget. Ms. Miller stated that in the past, VOPA has been operating on a surplus but now that surplus has been spent and there were fiscal concerns about the PAIMI grant. Changes have been made internally by focusing more on systemic issues that have system wide impact. Currently, VOPA's mental health spending is in good shape. Ms. Miller believes that VOPA may be able to increase work on individual cases in the near future.

Ms. Miller turned her discussion to the Progress on Objectives Report. There is a recognition that a lot of behaviors are a result of past trauma and it is essential that treatment is based on trauma informed care. Trauma Informed Care is designed to specifically address the consequences of trauma in the individual to facilitate healing. The use of restraint is very dangerous therapeutically and physically for people with a history of trauma. VOPA has looked into physical and mechanical restraints but not into chemical as doctors do not consider medicine as restraint but rather treatment. Ms. Harkey asked about alternatives to restraints such as what Mr.

Hornstein talked about earlier in the meeting about going to open spaces to calm down. Jenny Heilborn talked about the use of sensory environmental strategies such as calming rooms and comfort rooms.

**Staff Presentation -
Children's Mental
Health Services**

Jenny Heilborn, VOPA Disability Rights Advocate, spoke about Psychiatric Residential Treatment Facilities (PRTF) and community-based alternatives. PRTF are private, freestanding psychiatric inpatient facility designed to provide services to children and adolescents under 21 years of age with cognitive, emotional, or behavioral issues. PRTFs are designed to provide short-term stabilization and therapeutic treatment to enable children and adolescents to return to living and receiving services within the community. Ms. Heilborn stated that the New Freedom Initiative (NFI) of 2001 created a nationwide effort to remove barriers to community living for people with disabilities. Part of the NFI was the New Freedom Commission on Mental Health charged with making recommendations that would enable adults with serious mental illness and youth with serious emotional disturbances to live, work, learn and participate fully in their communities. In 2006 the Commission released a report outlining significant problems providing community based alternative to youth with serious emotional disturbances. As a result of the report, Center for Medicare and Medicaid Services provided 10 states demonstration grants to create programs to provide home and community based services to youth as alternatives to PRTFs. Ms. Heilborn stated the Mendy Meeks will talk in greater detail about Virginia's demonstration grant used to create the Children's Mental Health Program after lunch.

Working Lunch

PAIMI Advisory Council members and guests networked with VOPA staff and outside presenters.

**Presentation –
Children's Mental
Health**

Mendy Meeks from the Department of Medical Assistance Services (DMAS) spoke to the Council about children's mental health in Virginia. In December 2006, DMAS applied for and was later awarded a demonstration grant to design a program that will allow states to offer home and community-based services for children who reside in PRTF. PRTF are the primary provider for youth with serious mental health issues requiring an institutional level of care. Until the release of this grant, states were not allowed to have waivers that used PRTFs as an alternative institution. Virginia was one of ten states chosen to implement a program to allow children who need a PRTF level of care, to receive services in their

community.

The Children's Mental Health (CMH) Program provides the following services to eligible youth: Transition Coordination; Environmental Modifications; Companion Services; and Respite Services. To be eligible, children and adolescents have to be under the age of 21 and have been in a PRTF at least 90 days; have a psychiatric diagnosis; remain eligible for Medicaid after they leave the PRTF; have a family willing to take the child home; have community service available immediately upon discharge from the PRTF; and continue to need the level of services of the PRTF.

Currently, there are eleven children enrolled in CMH. CMH has had many successes, primarily the cost savings. The 2009 projections estimate that children residing in PRTFs costs on average \$65,880, compared to children on the CMH waiver that costs on average \$38,012.

Board of Director's Report

Pat Meyer reported to the Council the January 30, 2009 VOPA Governing Board meeting. In place of a training, the Board had a tour of VOPA's offices and met various staff members. Staff members talked about several projects that they are currently working on. This idea was brought up during April 2008 Board Retreat as a way to improve Board and VOPA staff relations. Board members highly valued the tour and requested another tour in the future.

Board members adopted a policy to tie VOPA reimbursement mileage rate to the state rate. In the past, the Board would have to approve every increase or decrease which could be months after the state change.

Ms. Meyer discussed the Virginia Alliance for Community which initiated a lot of discussion during the Board meeting. As part of the discussion, the Executive Director will update weekly the Governing Board Chair of VOPA activities weekly.

Governing Board Committee Reports

Finance Committee – Ali Parker – reported that in the past, PAIMI grant was operated on a surplus and now the surplus has been spent. Ms Hymes was concerned about not having enough money to do what VOPA needs to do.

Council Relations and Public Policy Committee – CW Tillman – reported that PAIMI Advisory Council By-Laws were discussed and changes to the appointment process were

proposed. These changes have been brought forward to the Board to approve at the next meeting in April. Governing Board members were asked to sign up in advance to attend PAIMI and Disabilities Advisory Councils to provide Governing Board Reports.

Internal Policy Committee – Mr. Tillman attended the meeting and stated that the committee talked about policies concerning job references, work and telecommuting. The public participation guidelines have been approved to allow public comment on VOPA rules when entered into Virginia Code.

Goals and Public Awareness Committee – Ms. Meyer talked about the discussion to create a new cycle for goals. Currently goals are on a two-year cycle and the proposed cycle is for three-years.

Other Business

- **Membership** Mr. Tillman suggested that the PAIMI Advisory Council advertise with the Virginia Young Democratic Party as they have a disability caucus. Mr. Tillman is not aware of something similar with the Republican Party. Sandra Musselwhite suggested trying the mailing list with CELT or VOCAL and suggested using e-mail rather than postage as a means to save money. Ms. Mendella spoke about the mailing campaign in early 2008 where she mailed recruitment flyers and application forms to Mental Health Clubhouses and to VOCAL.

Ms. Mendella introduced three new members of the PAIMI Advisory Council: Van Johnson, Yvette Lane, and Sandra Musselwhite.
- **Meeting minutes in Governing Board packet** Mr. Tillman stated that at the Council Relations and Public Policy Committee meeting minutes from both VOPA Advisory Council and VOPA Governing Board be included in all meeting packets. Council members also asked for a list of Governing Board members also be included in the meeting packets. Ms. Parker made a MOTION to include Governing Board minutes and a list of Board members to be included in PAIMI Advisory Council packets. Mike Newcomb SECONDED the MOTION. The MOTION carried unanimously.
- **Council Member Job Description** Mr. Tillman spoke about the sample job descriptions handed out at the Council Relations and Public Policy Committee. Sample job descriptions usually contained information about

the major function of the council, attendance and participation, meeting preparation and other things. Mr. Tillman read from the Federal Code creating the PAIMI Advisory Council to:

1. Provide independent advice and recommendations to the Protection and Advocacy system;
2. Work jointly with the governing authority in development of policies and priorities; and
3. Submit a section of the system's annual report as required by Sec. 51.8.

Ms. Parker stated that a job description would really help with recruitment as potential applicants will have some understanding what it means to be a council member. Mr. Tillman said that he would review the Federal Code as well as look at sample job descriptions from California and Montana and draft something by the next meeting. Members also wanted to know what categories are missing from the council. Mr. Tillman stated that the council make-up should include 60 percent consumers or family members, there should also be attorneys and Mental Health Professionals, and at least one family member who is the primary care giver of a minor child who is or has received mental health services. Ms. Harkey wanted to know if she met the criteria as her child turned 18 last year.

- **Travel Voucher**

Mr. Tillman reminded Advisory Council members to submit their travel vouchers to Ms. Mendella.

Ms. Musselwhite made a MOTION to adjourn the meeting at 3:15 p.m. Ms. Harkey SECONDED the MOTION. The MOTION carried unanimously.

FINAL MINUTES

5/14/2009

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.