

Virginia Office for Protection and Advocacy (VOPA)
Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory
Council Meeting

VOPA Conference Room – Richmond, VA

Final Minutes

September 18, 2010

Members Present Elaine Caudill, Van Johnson (Secretary), Yvette Lane, Sandra Musselwhite, Mike Newcomb (Chair), Ali Parker (Vice Chair), Sara Singhas

Members Absent Kathy Harkey, Steven Hornstein

Guest Present Donica Ellerd, Daaiyah Rashid

Staff Present Sherry Confer (Deputy Director), Kim Mendella (Executive Assistant)

For portions: Paul Buckley (Managing Attorney), Colleen Miller (Executive Director)

**Call to Order/
Welcome/
Introductions** Mike Newcomb, Chair, called the meeting to order. Mr. Newcomb asked everyone present to introduce themselves.

Public Comment No public comment was offered.

Work Session Sherry Confer, Deputy Director, facilitated the work session discussion on the PAIMI Advisory Council Annual Report. Ms. Confer directed everyone to be honest and to talk about things that worked for the PAIMI Advisory Council and things that did not. Topic suggestions included travel arrangements, staff interaction and support, meetings times and dates, and work VOPA completed or did not complete during the past fiscal year.

Members recommended that meeting packets be e-mailed rather than mailed as a means to save money. Members would also like a brief explanation on case statistics included in the meeting packet and not to use acronyms. Ms. Mendella suggested that she could meet with new members to provide a brief orientation to the work of the PAIMI Advisory Council and VOPA. Currently, members are provided a member orientation binder at their first meeting to read.

Members believe that VOPA should do more collaborative work with the mental health advocacy groups in Virginia. Members also want VOPA to work with Community Services Boards (CSBs) to

address community supports issues. Ms. Confer stated that most of VOPA's PAIMI work is with individuals in the institutions. Due to budget constraints, VOPA has limited work with CSBs and other community groups unless there is a specific objective. VOPA does provide some public policy work for PAIMI eligible individuals in the community. The PAIMI Advisory Council is disappointed that VOPA cannot work closely with the CSBs either in an investigative or monitoring capacity.

Members are very appreciative of VOPA's work in the jails and criminal system. Members know that there is a limit to how much work can be achieved in this field. Members want to know how much time and resources are used to help people with mental illness in the criminal justice system. Members admit that if there is a limited positive impact of VOPA's work on the criminal justice system, that VOPA's resources should be diverted to somewhere VOPA could succeed.

Other comments include:

- Members are pleased with VOPA's work educating parents of school aged children about their rights.
- Members are very impressed with VOPA's case that will be heard by the U.S. Supreme Court in December 2010
- Members are impressed with VOPA's work on Advanced Directives
- Members are pleased with breadth of cases VOPA undertakes and that each case will have a positive systemic impact
- Members are very happy with the quality of trainings and presentations at PAIMI Advisory Council meetings
- Members are pleased with VOPA's collaboration with other State level entities on key issues and projects that will have a systemic impact
- Members are very appreciative of the Council Liaison's efforts on their behalf

Executive Director's Progress on Objectives Report

Colleen Miller informed members about VOPA's objective to visit all assisted living facilities (ALFs) in Virginia that receive Auxiliary Grant funding and therefore serve PAIMI eligible individuals. VOPA staff will present to the ALF residents about their voting rights and staff will complete a survey on living conditions. The results of the survey will determine if VOPA will complete future work at a particular ALF to follow up. Members were very excited about this project. VOPA has been informing policy makers about the restrictions of the Auxiliary Grant funding for people with mental illness. Currently, people living in mental health facilities can access the Auxiliary Grant to live only at ALFs, not in an

environment that is more appropriate for them.

Ms. Miller updated the Council about VOPA's work with Advance Directives. The law that introduced included mental health in Advanced Directives was passed two years ago and VOPA has trained lots of people to facilitate the completion of the document. VOPA learned that people were reluctant to complete an Advance Directive unless there was someone to guide them through the process. Members asked if there were any complaints about Advanced Directives not being followed and VOPA has received none to date. VOPA worked in collaboration with Region 10 CSB to create a website on how to complete an Advance Directive and what to do if it is not honored. The website is: www.wellnesswored.org/page/index. Members were very happy with VOPA's work in this area as it legally empowers people with mental illness.

Members wanted to know how VOPA could solve the "pipeline" problem as people in jail who are in need of mental health treatment cannot move to hospitals as people in hospitals are not being discharged. Ms. Miller stated that the former Commissioner of Department of Behavioral Health and Developmental Services (DBHDS) made a directive that instructed facilities to move people from forensic beds to civil beds within ten days following the Forensic Board's approval. This would free up forensic beds so people in jails could access the treatment they need. The current Commissioner has not been following this directive. Commissioner Directives are not enforceable like laws and regulations but operate rather like an internal policy.

Litigation Report

VOPA has filed a human rights complaint with Eastern State Hospital (ESH) as DBHDS has halted all transfer to ESH until the new building is completed. VOPA states that individuals are denied receiving services in a least restrictive setting.

Ms. Miller announced that VOPA will go in front of the U.S. Supreme Court on December 1, 2010 stemming from an action to attempt to access peer review materials from several investigations of DBHDS-operated facilities. Several amicus briefs were filed on behalf of VOPA from the U.S. Solicitor General filed on behalf of the United States, National Disability Rights Network, the Rhode Island Office of the Child Advocate, the National Senior Citizens Law Center, the Arc of the U.S., the National Health Law Program, United Cerebral Palsy, and a group of law professors.

Working Lunch

Members networked and completed the PAIMI Advisory Council composition survey required for the annual report.

**Presentation –
Critical Incident
Reports**

Paul Buckley, Managing Attorney, introduced himself to the Council and began his report about critical incident reports (CIR) from state-operated facilities. Members asked about facility staff training especially in times of emergencies. Mr. Buckley stated that the first responders are usually custodial care who's primary job is to observe patients. Custodial care staff are taught primary first aide techniques but not more advance medical care. Facilities will also have nurses and registered nurses available to patients. Members also asked about who's responsibility it is to complete CIRs. The Risk Manager is the person that enters the data into the computer and the report is received by VOPA. The Risk Manager would often receive the information third hand from Direct Service Associate who received it from either the nurse or custodial care staff person.

Members asked if there are video surveillance systems in facilities that could document critical incidents in progress. VOPA does not have the legal authority to request video surveillance. Members also asked if VOPA received committee reports when an incident occurs. Facilities would often ask various committees (such as peer review) to investigate reports internally depending on the circumstances of the incident. VOPA does not receive a copy of these internal committee reports.

**Review of July 28,
2010 Minutes**

Mr. Newcomb directed the Council to the minutes on page 7 of the packet. Overall, the members liked the joint meeting as it was great way to meet members of the Disabilities Advisory Council and the VOPA Governing Board. However, members also commented that the PAIMI Advisory Council meeting was short and it was difficult to convey information from meeting to another. Some members suggested having the meetings span over two days.

Yvette Lane made a MOTION to accept the minutes as written. Elaine Caudill SECONDED the MOTION to accept the minutes as written. The motion carried unanimously.

**Greetings from the
Governing Board**

Mr. Newcomb introduced Daaiyah Rashid as a member of the Governing Board. Mr. Newcomb and Ms. Rashid work together on the Public Awareness and Goals Committee. Ms. Rashid stated that the Board is very appreciative of the PAIMI Advisory Council's recommendation for FY11 Objectives. There were several great recommendations and the Governing Board will take them into consideration when approving the FY11 Objectives at the September 29 Board meeting.

Other Business

Membership

Ms. Confer noted that there is a current vacancy for the required

position of a parent or guardian of a minor child who is receiving or has received mental health services. Few Council members volunteered to talk with their community contacts about recruiting a member that can fill the vacancy.

Nominations of Officers

Mr. Newcomb stated that he and Ali Parker are filling partial terms vacated in February and are now eligible to serve full terms. Sandra Musselwhite made a MOTION to keep the officers as is. Ms. Caudill SECONDED the MOTION to keep the officers as is. The motion carried unanimously. The Officers is as follows:

Chair: Mike Newcomb
Vice Chair: Ali Parker
Secretary: Van Johnson

Meeting Minute Structure

The Council discussed streamlining the minutes. All agreed to decrease the level of detail.

Ms. Parker made a MOTION to adjourn the meeting. Ms. Lane SECONDED the MOTION to adjourn the meeting. The MOTION carried unanimously.

FINAL MINUTES

11/13/2010

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.