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ADVOCACY OPPORTUNITY WITH VOPA'S ADVISORY COUNCILS

By Kim Mendella, Council Liaison

VOPA is currently accepting applications for people to serve on its Advisory Councils. VOPA convenes two Advisory Councils: the Disabilities Advisory Council (DAC) and the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council. These Councils help the VOPA staff and Governing Board make VOPA's mission a reality. The Councils help to bring "real-life" perspectives to VOPA's work and are invested in VOPA and system change efforts. Both Councils reflect Virginia's diverse culture and geographical areas.

tal Illness (PAIMI) Advisory Council is a federally mandated Council that requires that 60% of its members be individuals who have received or are receiving mental health services or are family members of such individuals. The Council also includes at least one member who is the parent of a minor child with a mental illness. The remainder of the membership consists of individuals who are knowledgeable of mental illness, attorneys, providers of mental health services and mental health professionals.

sensory, developmental, intellectual disabilities and traumatic brain injury. The remainder of the membership consists of individuals who are providers of disability-related services and who are knowledgeable about disabilities.

Please check out VOPA's website for further information about both of VOPA's Advisory Councils. An online application to both Councils is on the website and you can also contact the office if you prefer a printed copy.

MISSION OF VOPA

Through zealous and effective advocacy and legal representation to:

- ◇ *Protect and advance the legal, human, and civil rights of persons with disabilities;*
- ◇ *Combat and prevent abuse, neglect and discrimination;*
- ◇ *Promote independence, choice and self determination by persons with disabilities in the Commonwealth.*

These Councils' volunteer members take an active role in providing input into the annual development of goals and focus areas of VOPA. In addition, at their quarterly meetings they review the Office's progress toward these goals, ask clarifying questions and provide recommendations that enhance VOPA's efforts to represent people with disabilities.

Protection and Advocacy for Individuals with Men-

The Disabilities Advisory Council (DAC) membership is mirrored off of the PAIMI Advisory Council in that majority of the members must be individuals with disabilities who are eligible for disability-related services, are receiving disability-related services or are family members of individuals with disabilities. The DAC consists of representatives of individuals from the disability community including people with physical,



FORCED TREATMENT OR FALSE HOPE?

By Colleen Miller, Executive Director

Reprinted from *Capitol Connections*, Winter 2007 issue, page 10

The events of April 16, 2007, left us all stunned and saddened. Before long, as the details of the Virginia Tech shootings began to emerge, sentiment grew that something must be done. Something must be done so that this kind of tragedy could never happen again. Some are now urging that the "something" be a way to force people into mental health treatment that they do not want. Unfortunately, the plan for so-called assisted outpatient treatment offers only a false promise that something has been done.

Some are asking the Virginia legislature to create a way to force people with mental illness to undergo treatment that they do not want. Although they term the program "assisted outpatient treatment," assistance has little to do with it. It would be, simply put, coercion: a way to make someone follow a doctor's order when the person disagrees with the doctor, under threat of confinement. The reasons why someone might disagree with a doctor vary widely. Many do not wish to risk the serious side effects of psychotropic medications, even if they might bring a benefit to the person. Many have had experience with the treatment being forced on them, and they remember the traumatic effects of the treatment. Some have religious convictions against certain kinds of treat-

ments. Still others do not believe that they are as sick as they might be.

Studies in North Carolina and New York conclude that forced outpatient treatment does not reduce the need for hospitalization of those who are acutely mentally ill. According to the Bazelon Center for Mental Health, involuntary outpatient commitment *appears* to increase the use of services because it forces the system to make those services available to people for whom a court has ordered treatment. However, expanding service options would accomplish the same ends without coercion, without the trauma of a court appearance and without violating the individual's right to make his or her own decisions. Forced treatment drains limited community resources and directs it where it will be least effective. With, literally, hundreds of people with mental illness on waiting lists for services, forced treatment makes poor economic sense.

Few dispute the need for greater resources for mental health services. The need is dire indeed. Each month, there are hundreds of people being held in state hospitals who are ready to leave, but can't because of the lack of services in the community. These are folks who are not a danger to themselves or anyone else, but they simply

have no place to go that has the supports they need to live outside an institution. Each month, there are hundreds of people with mental illness being held in jails, places that are not equipped to treat their mental illness. They remain in jails because of the lack of appropriate services elsewhere.

The need for greater resources is true in nearly every community in Virginia. Almost every one of Virginia's forty "community services boards" has been forced to create a waiting list for services, where people who need mental health services wait for months before they receive them. These are individuals who want treatment, who seek help, but can not get it because of dramatically limited resources. It is hard to understand why the Commonwealth of Virginia would want to force people into treatment who do not want it, but would continue to deny treatment to those who do want it.

Forcing treatment on someone against their will is a "massive curtailment of liberty," according to the United States Supreme Court. Forced treatment cannot be done if the person is not dangerous, the Court has instructed. Especially here, in the birthplace of liberty, forced treatment should not be done, even if it is done with the best of intentions and under the guise of "assistance."

VOPA'S INITIATIVES REGARDING THE NEED FOR SPECIAL EDUCATION SERVICES FOR CHILDREN IN FOSTER CARE

By Brooke Henderson, VOPA Staff Attorney

"What would be your best guess as to the percentage of children you have worked with in foster care having special education needs?" asks VOPA Disability Rights Advocate Robert Gray to a group of social workers, parents, and advocates. The answer is immediate: "All of them," states one social worker. Around the table, heads nod in agreement.

"Well, not all of them were actually receiving services," the social worker clarifies. "But I feel that all of them

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VOPA'S Initiatives... con't. from page 2

should have been evaluated by the schools.”

There is a surprising lack of statistics on the number of children with disabilities in foster care, or on those foster care children receiving special education services. However, Protection & Advocacy organizations across the country have recognized a need to raise awareness and address the issue of special education needs of those children in the foster care system.

“VOPA’s fiscal year 2008 Goals and Objectives set forth that the agency will develop a training for foster parents and advocates regarding special education rights and present to two groups. In February 2008, Disability Rights Advocate Robert Gray and Staff Attorney

Brooke Henderson developed and presented this training at Adoptions Together, a private organization providing child placement services, in Herndon, Virginia. A second training was held on April 18th to a large group of parents and advocates affiliated with the Head Start programs across the Eastern Shore of Virginia, and contacts have been made regarding future trainings in Central Virginia and the Tidewater area.

VOPA strives to promote self-advocacy for individuals with disabilities, and in the case of a minor child, “a strong voice is needed to advocate on that child’s behalf, such as that of a parent,” says Gray. Children in the foster care system are in transition during the time when it is especially crucial to have such a voice to speak out on their behalf. VOPA endeavors to educate

and raise awareness in foster parents and other adults that may be able to serve as advocates for these children.

A second goal implemented by VOPA is to represent four children in foster care who have been improperly denied special education eligibility or services due to lack of or inappropriate evaluations and assessments. Essentially, this goal is one that VOPA consistently has for all children with disabilities, but in 2008, VOPA specifically aims to reach the subset of children in foster care. The trainings will be an avenue to achieve this goal.

If you would like to request VOPA’s services in this regard, please contact us at (804) 225-2042, or toll-free at 1 (800) 552-3962.

WHAT IS EPSDT?

By Sophia Nelson, Paralegal/Disability Rights Advocate

- Early** – Identify problems early, starting at birth
- Periodic** – Checking children’s health at regular, age appropriate intervals
- Screening** – Performing physical, mental, developmental, dental, hearing, vision, and other tests to detect potential problems
- Diagnosis** – Performing diagnostic tests to follow up when a risk is identified
- Treatment** – Treating the problems found

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) is a comprehensive and preventive child health program that covers Medicaid eligible children from age birth to 21. EPSDT Services include medically necessary treatment services that are not routinely covered for adults. Under EPSDT, states are required to provide any medically necessary health care services listed at section 1905 (a) of the Social Security Act to correct, ameliorate or maintain physical and mental conditions even if the service is not included under the state’s Medicaid plan.

Some of the most commonly provided services under EPSDT include: Hearing Aids, Assistive Technology, Personal Care, Private Duty Nursing, Medical Formula and Medical Nutritional Supplements, Substance Abuse Residential Treatment Services, Specialized Behavioral Rehabilitation and Residential Treatment Services. Some of the non-traditional services provided under EPSDT include: Adapted Exercise Equipment, Organ Transplants, Adapted Wheelchairs, One-to-one Aides and Applied Behavioral Analysis Therapy.

What has VOPA been doing to inform the public about EPSDT?

VOPA has completed five EPSDT presentations across the state. Attendance at the presentations has ranged from parents and advocates to medical professionals and Department of Social Services staff. The response to these presentations has been overwhelmingly positive and VOPA has taken on multiple cases, in some of which the clients’ families had no prior knowledge of the program before attending the presentation. Feedback of the presentations has spread to the point where VOPA has been solicited to do additional presentations. We currently have an additional three presentations scheduled.

TRAUMATIC BRAIN INJURY IN CHILDREN EARLY IDENTIFICATION IS VITAL TO SUCCESSFUL REHABILITATION

By Lisa Shehi, Executive Assistant/Communications Liaison

Over 3,000 children die in the United States each year as a result of a Traumatic Brain Injury (TBI), based on figures available from the National Association of State Head Injury Administrators website. Individuals with TBI face an uphill journey as many must relearn basic stages of development. Rehabilitative and special education resources exist to assist children with TBI in these and other tasks.

“If a teacher or day care provider notices any changes that could be the result of a brain injury, it is imperative that he or she notify the parents, guardians, or school administrators immediately,” said Colleen Miller, Executive Director of the Virginia Office for Protection and Advocacy. “Early diagnosis and treatment is crucial if the child is to regain any of the motor skills or memory that has been lost or to begin appropriate rehabilitative or educational services.”

Signs and symptoms may not appear immediately after an incident. Also, many symptoms of TBI are

not always diagnosed correctly because these symptoms may mimic many other types of conditions. For that reason, parents, school teachers, and day care providers are some of the most important partners in helping to recognize TBI in children. Teachers and day care providers spend significant time with the children they serve each day. While it is not easy to identify every change in every child, knowing and being alert to the signs and symptoms of TBI may help with early identification that will lead to diagnosis. Some of those signals include: lethargy, headaches, mood changes, confusion, irritability, constant headaches, and changes in school functioning. This list is not all encompassing. More information may be obtained through the Brain Injury Association of America at www.biausa.org, the Brain Injury Association of Virginia at www.biav.net, or the Centers for Disease Control (CDC) at <http://www.cdc.gov/ncipc/tbi/TBI.htm>.

The most prevalent cause of brain injury at any age is falling. The CDC reports that twenty-eight percent of brain injuries are caused by falling. For children, falls are parts of normal development as they learn to walk, run, and participate in activities. The effects of those falls must be monitored carefully. In addition to falls, key causes include car accidents, blows to the head (accidental or intended), sports injuries, and shaken baby syndrome.

The Virginia Office for Protection and Advocacy, an independent state agency whose mission is to effectively advocate for individuals with disabilities, has prepared a resource information sheet to aid in identifying appropriate service providers. The fact sheet may be downloaded at www.vopa.state.va.us/publications or may be provided by mail by calling 804-225-2042 (voice or TTY) or 800-552-3962.

VOPA's Speakers Bureau

Our staff is available to provide presentations and/or training sessions on disability-related rights that are addressed by our current goals and focus areas. VOPA can also provide an exhibit and/or materials for fairs, conferences, etc. Please contact us at 1-800-552-3962 or via e-mail at speakers.bureau@vopa.virginia.gov to request a speaker, exhibit, or materials.



Virginia's Protection and Advocacy System Serving Persons with Disabilities

“IS IT POSSIBLE TO PLAN FOR LIFE OUTSIDE THE INSTITUTION?”

By Julie Triplett, Disability Rights Advocate

This is a question we, the staff of Virginia Office for Protection and Advocacy (VOPA), try to answer in some way every day. The basic answer to the question is yes, it is possible to plan for life outside of the institution while in the institution. However, this answer comes in many different ways.

When developing a “Discharge Plan” for leaving an institution, of course there are the natural thoughts like housing, medical care, day support programs and transportation, which are all absolutely vital as a part of a discharge plan for someone who is preparing to leave an institution. However, there are a couple of items that often are overlooked by institution staff when assisting a client to develop their discharge plan. The items that are sometimes not thought of while a client is still in the institution are vocational services and benefits planning.

One of the objectives of VOPA for fiscal year 2008 is to go to each of the eight state hospitals that serve individuals who have a mental illness and provide training to the residents and staff pertaining to vocational services and benefits planning in developing a discharge plan. This has been a project that I have personally worked on and very much enjoyed. So far, VOPA has provided training to residents and staff at Catawba Hospital, Southwest Virginia Mental Health Institute and Central State Hospital. Over two hundred individuals have participated in this training opportunity. Plans are being made to visit the other five hospitals.

During the training time I talk about a person’s rights to receive vocational services from the Department of Rehabilitative Services (DRS) while they are still in the institution. Therefore, once the individual is discharged from the institution they already have a plan as to what to do about working. Many people either were not familiar at all with DRS programs and services, or they had limited contact with DRS staff over the years. I mentioned that it is appropriate for a DRS counselor to come



to discharge planning meetings and very few residents had even heard of this concept. The residents have been very receptive to learning about DRS’s role in discharge planning. VOPA has opened several cases for individuals who want DRS to begin assisting them while they are still in the hospital.

Another aspect of the discharge plan that is sometimes overlooked is benefits planning. Many of the

individuals that I have spoken with have no idea about the work incentives program, as to how they can work and still receive benefits. I have provided individuals with information about the Community Work Incentives Coordinators (CWIC) in their area. The CWIC can extensively work with a client who is on benefits to know about all work incentives that might apply to an individual situation. VOPA’s role in this situation is to advocate for the Social Security Administration (SSA) to recognize that a work incentive applies to that individual. To find out how VOPA can assist you if you are having problems returning to work and understanding work incentives that apply to you, please call us at (800) 552-3962.

At the beginning of this article I stated that it is possible to plan for life outside of the institution while still in the institution. Do you now see what I mean when I say there are many ways to plan for life when leaving the institution? I hope this article has helped you to understand that at VOPA we are commit-



ted to helping people with disabilities to know about all aspects of discharge planning when leaving an institution. Life can continue when you return home from the institution, and planning for every part of your return will help you to be as successful as possible in your own community.

PLANNING AND RESPONSE TO ALL HAZARDS

By Rebecca Currin, Disability Rights Advocate

Disasters can happen!



Following the devastating aftermath of recent weather events, there is increased focus on planning for and responding to disasters. In the past, there has been inadequate planning for and with seniors and persons with disabilities. As a result, the U.S. Department of Health and Human Services in partnership with the U.S. Department of Homeland Security presented the *Working Conference on Emergency Management and Individuals with Disabilities and the Elderly*. “The expressed purposes of this conference were to network State teams, emergency management officials, and disability and aging experts to facilitate cooperative planning with senior officials of the Federal Emergency Management Agency (FEMA) regions; and to identify and institute measurable outcomes and systems for tracking results.”

The Virginia Delegation to the conference included representatives from several state agencies including the Virginia Office for Protection and Advocacy (VOPA). This group continues to work together to ensure that there is collaboration between agencies and increased involvement of persons with disabilities in disaster planning, response and recovery at the local, state and federal levels.

It has been noted that community residential services providers indicate that they lack the background and resources to do an adequate job of planning ahead for the residents of their facilities in the event of an emergency. This concern was addressed

at the Community Integration Advisory Commission meeting in September 2007. VOPA continues to monitor the development of emergency plans in state-licensed congregate care facilities.

What can you do?

- Do you have your own emergency plan at your home?
- Does your workplace have a plan?
- How are you prepared?
- Do you have a contact outside of your area?
- Do you have a plan to transport/care for your pets?
- Are all of your essentials easily accessible?

The **Citizens Corps** help get citizens directly involved in homeland security and emergency preparedness.

You can find information on all these programs at <http://www.vaemergency.com/citcorps/index.cfm>

Additional Resources

The **Virginia Department of Emergency Management**
<http://www.vaemergency.com/prepare/index.cfm>

The **American Red Cross**
<http://www.redcross.org/pubs/dspubs/cde.html>.

The **Virginia Department of Health**
<http://www.vdh.state.va.us/EPR/>.

VOPA'S NEW INTERNSHIP PROGRAM

By Julie Kegley, Staff Attorney/Internship Coordinator

VOPA is very excited about the initiation of a formal internship program. Throughout the years, VOPA has had summer interns, usually a law student from a local law school. However, as VOPA's legal and advocacy work has expanded and taken on more challenging issues, VOPA has found that having both legal and non-legal interns increases our ability to effectively serve our clients and other Virginians with disabilities.

"Working at VOPA has been challenging, stimulating, and rewarding; it has strengthened my desire to work in disability advocacy and increasingly broadened my education in the field of psychology and law. It has been one of the best experiences of my life, and I'm so grateful to have had the opportunity to work for - and with - such amazing people."



VOPA's internship program runs year-round, meaning that interns can work with VOPA each semester out of the year. VOPA had two interns during the 2008 Spring semester: Jenny Heilborn, pursuing her Master's degree in psychology at the University of Richmond and Andy Hanlin, a second-year law student at The College of William and Mary.

When asked to describe his VOPA internship, Andy said: "The people at VOPA were great. If I ever needed help with anything or just wanted to talk about what was going on, there was always someone friendly I could talk to. The work was interesting and important. Not only did I learn a lot about Disability Law and a lot of practical skills that I can apply anywhere, but I also learned how VOPA relates to other areas of the law. I was able to participate in mediations, watch oral arguments in federal and state court, tour state-run facilities, and work on complex legal issues that spanned a wide variety of disciplines. All of this work gave me a greater understanding of how 'the system' actually works in real life than I've attained in two years of law school."

VOPA recruits its legal interns from law schools state-wide. This summer, VOPA will have four legal interns: Two from the University of Richmond law school and two from The College of William and Mary. VOPA's Executive Director, V. Colleen Miller, said of the internship program: "It is my hope that our Internship Program will be a learning experience for our interns, whether or not they end up in the disability rights field. Giving our interns exposure to working with people with disabilities and understanding the various issues they can face will be knowledge that they can take with them as they embark on their careers and in life."

Andy Hanlin



VOPA encourages students in college, in graduate school, and in law school to contact VOPA's Internship Coordinator and Staff Attorney, Julie Kegley, if interested in finding out more about VOPA's Internship program.



VOPA's newest interns started May 12.

From left to right: Allison Bridges, Devin Pope, Elizabeth Mercuri and Sara Chamberlain.

PROPOSED STATE SPECIAL EDUCATION REGULATIONS ARE TROUBLING

VOPA has submitted detailed comments about the Proposed Virginia Special Education Regulations to the Virginia Department of Education which can be viewed on VOPA's website at <http://www.vopa.virginia.gov/Regs.htm>

In general, VOPA supports and shares the concerns raised by Governor Kaine, in his March 21, 2008 statement, and the Comments submitted by the Coalition for Students with Disabilities in Virginia.

In particular, we are alarmed by the way the proposed Regulations restrict parental and child rights; indeed, in some areas, the Regulations completely remove rights.

VOPA urges VDOE to review these comments and revise their Regulations to foster and protect the

rights children and parents are given in federal law and the current state regulations.

Written comments regarding the revision of the Virginia Regulations may be submitted via one of the methods outlined below.

EMAIL – ReviseSpedRegs@doe.virginia.gov

FAX – (804) 786-8520

MAIL –
Special Education Regulations
Revision Process
Office of Dispute Resolution
and Administrative Services
Virginia Department of Education
P.O. Box 2120
Richmond, Virginia 23218-2120
Oral public comment may be sub-

mitted during the public hearings. (see VOPA's website for dates and locations.)

Individuals and organizations who submit public comment are entitled to receive a summary of all public comment received by the Virginia Department of Education during the revision process, and the agency's response to the comments submitted. If you are interested in receiving this document at the end of the revision process, please include either an electronic or surface mailing address with your comments.



Celia Yette is a Disability Rights Advocate in the Resource Advocacy Unit (RAU).

The RAU is VOPA's first point of contact with the disability community. The RAU staff are responsible for providing information and referral services; for receiving, reviewing and processing requests for assistance; for reviewing and processing all requests for training or speakers, and for the development and distribution of publications and resource materials. The RAU coordinates VOPA's office hours program and rights clinics. As part of its advocacy services, the RAU staff may provide short-term assistance or limited representation in specified areas of practice.

Celia has a Master's Degree in English from Virginia State University, and has worked for the Central Virginia Independent Living Center as an Independent Living Coordinator and for the Social Security Administration as a Beneficiary Assistance Representative.

If you are fortunate enough to speak with Celia when calling VOPA, you can now put a face with the name!

1910 Byrd Avenue, Suite 5
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VOPA

Virginia's Protection and
Advocacy System Serving
Persons with Disabilities

**Virginia Office for Protection
and Advocacy
1-800-552-3962**

We're on the Web!
www.vopa.state.va.us

NEWSLETTER INFORMATION—We are trying to reduce the distribution of hard copies of the newsletter, due to the high cost of production and mailing. We ask that anyone with internet access, please consider opting to view the newsletter on our website at www.vopa.state.va.us. Our newsletter is normally produced on a quarterly basis—spring, summer, fall and winter. Please notify us if you no longer wish to receive the newsletter by U.S. mail, by e-mailing us at general.vopa@vopa.virginia.gov.

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