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| STATE HUMAN RIGHTS COMMITTEE | |  |  | |
| John Barrett, Chairperson  Richmond / Deltaville  Will Childers, Vice-Chairperson  Hardy  David Boehm  Marion  Pete Daniel  Charlotte Court House  Julie Dwyer-Allen  Leesburg  Monica Lucas  Richmond  Sandy Robbins  Valentines  Cora Swett  Nokesville | COMMONWEALTH of VIRGINIA  *Department of Behavioral Health and Developmental Services*  *Post Office Box 1797* Richmond, Virginia 23218-1797 Mira E. Signer, Acting COMMISSIONER | | | Deb Lochart  State Human Rights Director  deb.lochart@dbhds.virginia.gov  Office of Human Rights  1220 Bank Street  Richmond, VA 23219  P.O. Box 1797  Richmond, VA 23218  www.dbhds.virginia.gov |

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|  | ***STATE HUMAN RIGHTS COMMITTEE***  ***MEETING MINUTES***  **Thursday, November 21, 2019**  Eastern State Hospital  Director’s Board Room  4601 Ironbound Road  Williamsburg, Virginia  23188  **Administrative Session**  **8:30 a.m.** |  | | |
| **Members Present** | John Barrett, **Chairperson;** Will Childers, **Vice-Chairperson;** David Boehm; Pete Daniel; Julie Dwyer-Allen; Monica Lucas; and Cora Swett | | |  |
| **Member Excused** | Sandy Robbins | | |  |
| **Staff Present** | Deb Lochart, State Human Rights Director  Taneika Goldman, Deputy State Human Rights Director  Karen A. Taylor, Senior Assistant Attorney General  Reginald T. Daye, Region 5 Human Rights Manager  Latoya Wilborne, Human Rights Advocate  Mike Gause, Human Rights Advocate  Marquita Westray, Human Rights Advocate  Carrie Flowers, Human Rights Advocate  Kli Kinzie, Executive Secretary | | |  |
| **Others Present** | George F. Daniel, Charlotte Court House | | |  |
| **Present for the Welcome** | Donna Moore, Psy.D., Facility Director, Eastern State Hospital (ESH) | | |  |
| **Call to Order** | At 8:37, John Barrett, Chairperson, called the administrative session of the November 21, 2019 State Human Rights Committee meeting to order. | | |  |
| **Approval of Agenda** | At 8:37, the SHRC considered approval of the agenda. Taneika Goldman, Deputy State Human Rights Director, announced that Central State Hospital has 4 rather than 5 variances for review.  *Upon a motion by David Boehm and seconded by Cora Swett the amended agenda was approved unanimously.* | | |  |
| **Staff Introductions** | At 8:38, the committee was introduced to new human rights staff. Mike Gause and Marquita Westray have joined the department as Human Rights Advocates in Region 5. Latoya Wilborne, Human Rights, Advocate, and Reginald T. Daye, Human Rights Manager, Region 5, were also present. | | |  |
| **Correspondence and Information** | At 8:40, Deb Lochart, State Human Rights Director, informed the committee of Secretary Carey’s announcement of the appointment of Alison Land as DBHDS' new Commissioner.  Ms. Lochart discussed correspondence and information. The committee received DBHDS and OHR organizational charts. The committee received a copy of the SHRC’s decision for Appeal Case 19-03 as well as Acting Commissioner Mira Signer’s response. Reginald T. Daye, Regional Human Rights Manager for Region 5, acknowledged the action plan. | | |  |
| **Variance Annual Updates** | At 8:45, Taneika Goldman, Deputy State Human Rights Director, called for annual variance updates for Barry Robinson Center, Harbor Point Behavioral Health Center, Holiday House of Portsmouth, Kempsville CBH and Newport News Behavioral Health Center. | | |  |
| The Barry Robinson Center | At 8:46, Reginald T. Daye reported that in 2017 The Barry Robinson Center was granted variances to 12VAC35-115-50 C7 Dignity (phone) and 12VAC35-115-50 C 8 Dignity (visitation) in 2013 and approved for continuance in 2017. Use of the variance allows for approved visitors’ and phone lists for children and adolescents aged 6 – 18 being treated in the Center’s residential program. There have been no violations and no interruptions in the youth’s rights and no complaints from residents or parents. The current variance was approved in 2017 through October 22, 2020. | | |  |
| Harbor Point Behavioral Health Center | At 8:47, Reginald T. Daye reported that Harbor Point Behavioral Health Center was originally granted a variance to 12VAC35-115-100 Restrictions on Everyday Living in 2011. The variance allows for the use of the Matrix point level System for children and adolescents. Use of the variance provides consistent rewards for positive, constructive behaviors. Over the past year there have been no concerns or complaints from residents, their substitute decision makers or supporting external agencies regarding the Matrix level system, and there have been no violations due to staff’s failure to implement the system. | | |  |
| Holiday House of Portsmouth | At 8:48, Reginald T. Daye reported that Holiday House of Portsmouth was granted a variance to 12VAC35-115-50 C 8 Dignity (visitors) for children and adolescents. Use of the variance allows the social worker to have the individual, legal guardian and/or authorized representative provide a contact list that governs approved visitors for the child or adolescent while residing in the program. There have been no complaints from individuals or authorized representatives. Holiday House of Portsmouth consistently provides updates to the LHRC on a quarterly basis. There have been no violations or incidents over the past year. The program plans to request continued used of the variance in 2020. | | |  |
| Kempsville Center for Behavioral Health | At 8:49, Reginald T. Daye presented reports on 3 variances for Kempsville Center for Behavioral Health (KCBH). On October 27, 2017 KCBH was granted variance continuations to 12VAC35-115-50 C7, C8, (visitation and telephone); 12VAC35-115-100 A 1 g (vending machines); and 12VAC35-115-100 A 1 a and 110 C 16 (time out). The variance continuations were granted in 2017 by the SHRC for 3 years on October 27, 2017.  The program continues to not use vending machines and has incorporated the earning of snacks through the positive reinforcement point store/safe store (roving store).  Kempsville continues to utilize the approved variance as outlined for telephone calls and visitation within both the residential program as well as the acute program. Use of the variance allows for approved visitors’ and phone lists for children and adolescents aged 6 – 18 being treated in the Center’s residential program.  There have been no complaints or violations to the variances since the original approval of the variances. Mr. Daye reported that when the SHRC approved the variance in 2017, the committee indicated the program must have a staff ratio of 1:3. The program has done better than that. | | |  |
| Newport News Behavioral Health Center | At 8:50, Reginald T. Daye presented the annual variance report for Newport News Behavioral Health Center. The program was granted variances to 12VAC35-115-50 C 7 and C 8 Dignity (telephone and visitation); and 12VAC35-115-100 A 1 a (restrictions on freedom of everyday life).  Use of the variance to 12VAC35-115-50 C 7 and C 8 Dignity (telephone and visitation) allows the program to restrict communications via telephone and visitation to only those placed on a list generated at admission by the guardian and resident. The residents are allowed to file a complaint verbally or in writing at any time concerning any aspect of the variances. Since the previous review period, Newport News Behavioral Health Center has not received any requests by the staff to modify the existing variances, or any complaints by the residents about the use of the variances.  Use of the variance to 12VAC35-1150100 A 1 a (restrictions on freedom of everyday life) allows the center to utilize the level system holding residents to rules and expectations outlined in the behavioral management program. Since the implementation of the level system Newport News Behavioral Health Center has experienced a great amount of success. | | |  |
|  | At 8:52, David Boehm asked about the availability of statistics for the variances. Reginald T. Daye responded that the SHRC will get statistical information about the variances when/if the providers present these variances for another approval, following the expiration in 2020. | | |  |
| **2020 Meeting Schedule** | At 8:52, Chairman John Barrett led a discussion on the proposed meeting schedule for 2020. Mr. Barrett requested a modification to the draft schedule. Committee members made suggestions for meeting dates and locations. Further discussion and motion on the meeting dates specifically are scheduled for later in the meeting. | | |  |
| *BREAK* | *At 9:01, Chairman Barrett adjourned the administrative session and called to order the regular session* | | |  |
|  | **Regular Session**  **9:00 a.m.** | |  | |
| **Members Present** | John Barrett, **Chairperson;** Will Childers, **Vice-Chairperson;** David Boehm; Pete Daniel; Julie Dwyer-Allen; Monica Lucas; and Cora Swett | | |  |
| **Member Excused** | Sandy Robbins | | |  |
| **Staff Present** | Deb Lochart, State Human Rights Director  Taneika Goldman, Deputy State Human Rights Director  Karen A. Taylor, Senior Assistant Attorney General  Heidi Dix, Deputy Commissioner, Compliance, Legislative, & Regulatory Affairs  Reginald T. Daye, Region 5 Human Rights Manager  Latoya Wilborne, Human Rights Advocate  Mike Gause, Human Rights Advocate  Marquita Westray, Human Rights Advocate  Carrie Flowers, Human Rights Advocate  Jennifer Barker, Director of Patient Relations and Recovery Initiatives, Central State Hospital  Kli Kinzie, Executive Secretary | | |  |
| **Others Present** | George F. Daniel, Charlotte Court House  Ren Faszewski, Advocate, dLCV | | |  |
| **Present for the Welcome** | Donna Moore, Psy.D., Facility Director, Eastern State Hospital (ESH) | | |  |
| **Present via Telecom for VCBR Update** | Cheryl Young, Human Rights Advocate | | |  |
| **Present for Introduction** | Timothy M. Russell, SHRC Candidate from Williamsburg | | |  |
| **Call to Order** | At 9:01, John Barrett, Chairperson, called the November 21, 2019 State Human Rights Committee meeting to order. | | |  |
| **Welcome** | At 9:01, Chairman Barrett introduced Donna Moore, Psy.D. Facility Director, Eastern State Hospital (ESH). Dr. Moore welcomed the committee to ESH and gave a brief description and history of the Hospital. The hospital has made great strides forward. In the past 6 months, the Department has hired over 300 staff for ESH. Dr. Moore commented that they have an almost perfect record of retaining their RNs.  The hospital serves challenging populations, especially with the jail transfers that come in. Staff are dedicated to providing quality care, investigating all issues that arise. | | |  |
| **Meeting Schedule** | At 9:06, the SHRC reached a decision on the following 8 meeting dates for 2020. A consensus was reached on locations. Specific locations are tentative until availability of space is verified:  January 30 - Central State Hospital (Tour of Hiram Davis)  March 5 - Prince William CSB (Tour of Dorm Program)  April 23 - Catawba Hospital  June 11 - Loudoun County CSB (CRi Sterling)  August 27 – TBD  October 15 - Western Tidewater CSB  Nov 19 - Service Source Program, Northern Virginia  Dec 17 - Poplar Springs Hospital | | |  |
| **Draft Minutes Review** | At 9:21, the SHRC reviewed the draft minutes of the October 17, 2019 SHRC meeting.  *Upon a motion by David Boehm and seconded by Pete Daniel the minutes of the October 17, 2019 SHRC meeting were unanimously approved.* | | |  |
| **Advocate Facility Overview ESH** | At 9:21, Reginald T. Daye, Region 5 Human Rights Manager, presented the facility overview and seclusion and restraint data for reporting period July thru September 2019. Eastern State Hospital was founded in 1773 with a well-intentioned emphasis on community focused mental health care. The Hospital is joint commission accredited. The campus consists of two patient care buildings housing nearly 300 patients, and a staff of over 900.  Mr. Daye provided a summary of seclusion and restraint data by month for the reporting period. The hospital is running pretty close to capacity at present. Mr. Daye reported on allegations of abuse and neglect, and human rights complaints. His summary included peer to peer altercations. There were no founded allegations, and no violations.  Mr. Daye advised that the assigned advocates’ duties include providing technical assistance to the facility with Williamsburg Regional LHRC reviews and CHRIS, assisting the facility with new employee human rights training, monitoring facility investigations, conducting unit reviews for compliance with the human rights regulations, and the review and comment of all abuse investigations. The advocate also provides advocacy services to patients by assisting with complaint resolution, conducts facility look behinds to determine compliance, and supports the Williamsburg Regional LHRC, Newport News LHRC, and 2 LHRCs in lower tidewater.  Mr. Daye and the advocate team maintain an open dialog with the Facility Director. He is currently training new Region 5 OHR staff. Deb Lochart commended Mr. Daye and his staff, saying that the office has been using the OHR’s proactive rights protections philosophy to get to as many individuals as possible with the limited staff we have. | | |  |
| *BREAK* | At 9:42, Chairman Barrett called for a brief break.  At 9:50, the meeting reconvened. John Barrett welcomed Heidi Dix, Deputy Commissioner, Compliance, Legislative, & Regulatory Affairs. | | |  |
| **Public Comment Period** | At 9:51, John Barrett called for public comments. *No public comments were offered.* | | |  |
| **OHR Initiatives** | At 9:51, Taneika Goldman provided an update on OHR initiatives. Mrs. Goldman reported on the All Advocates Meeting in Charlottesville on October 29 and 30.  The Department has reached the end of another period in the DOJ Settlement Agreement. The OHR has received very good feedback, and leadership is excited about what the human rights program is doing. The office has implemented the AIM initiative and an APS/CPS protocol.  The human rights regulations are up for routine periodic review soon. The office may seek recommendations from a review panel and then bring recommendations on revisions forward to the DBHDS State Board.    Ms. Lochart commented that the APS/CPS reports are the type of thing the independent reviewer likes to hear about. The project was started in July 2017. OHR is receiving and reviewing CPS/APS reports for 120 localities. The APS/CPS reports are reviewed against CHRIS reports. This initiative is building a relationship with the Department of Social Services within each locality.  Mrs. Goldman spoke about growth and changes in the human rights office.  Marquita Westray has joined the office as an advocate in Region 5 at Eastern State Hospital. | | |  |
| **VCBR Facility S/R** | At 10:01, Cheryl Young, Human Rights Advocate joined the meeting via audioconference to present the update on VCBR.  Ms. Young reported on seclusion and restraint, allegations of abuse and neglect, and human rights complaints for September. The report is a revised version of the report presented in October, with updated statistics. There were no seclusions reported. There were 6 abuse allegations, all unfounded, and 2 peer to peer aggressions, both unfounded. | | |  |
| **CSH Variance Request** | At 10:06, Taneika Goldman, provided background on variance requests from Central State Hospital. On May 2 the LHRC reviewed 5 variance requests from CSH along with comments provided by staff and patients at CSH. The LHRC denied the request for a variance for cavity searches. Subsequently, CSH rescinded its request for that variance. On July 11 the SHRC was notified of CSH’s request for 4 variances. One public comment from dLCV was received on those variances.  The OHR recommends approval of the 4 variances until December 2022 with annual updates to the SHRC and quarterly review by the LHRC.  At 10:08, Jennifer Barker, CSH Director of Patient Relations and Recovery Initiatives, presented the variance requests for Central State Hospital. Two modifications have been made to the variances since their last approvals. | | |  |
|  | Variance #1: Mail and Communication in Maximum Security 12VAC 35-115-50, Dignity C6, C6a, C7, C7a, opening but not reading mail | | |  |
|  | Variance #2: Civil patients in Maximum Security – Money  12VAC 35-115-100 A1c, Freedoms on Everyday Life | | |  |
|  | Variance #3: Pat Downs: 12VAC 35-115-20, Policy; and 12VAC 35-115-50 C3a, Dignity. Ms. Barker noted that all staff are trained on performing pat downs. Some individuals have orders in their record not to have pat downs. | | |  |
|  | Variance #4: Complaint Procedure (CSH Policy RTS-01d):  12VAC 35-115-150, 170, 180, 190, 200, 210 | | |  |
|  | The SHRC discussed having a consumer on the committee that reviews CSH complaints pursuant to Variance #4. John Barrett tabled consideration of the appointment of a consumer on the appeal committee until the next meeting. | | |  |
|  | *Upon a motion by Pete Daniel and seconded by Monica Lucas the SHRC unanimously approved the following 4 variances for a three-year period until December 2022 with quarterly updates to the LHRC and annual reports to the SHRC:*  Variance #1: Mail and Communication in Maximum Security 12VAC 35-115-50, Dignity C6, C6a, C7, C7a, opening but not reading mail;  Variance #2: Civil patients in Maximum Security – Money  12VAC 35-115-100 A1c, Freedoms on Everyday Life;  Variance #3: Pat Downs: 12VAC 35-115-20, Policy; and 12VAC 35-115-50 C3a, Dignity; and  Variance #4: Complaint Procedure (CSH Policy RTS-01d):  12VAC 35-115-150, 170, 180, 190, 200, 210. | | |  |
|  | At 10:18, Chairman Barrett asked Julie Dwyer-Allen to work with Deb Lochart and Taneika Goldman on the issue of adding a consumer member to the committee that reviews CSH complaints. The item will be placed on the agenda for the January 30, 2020 meeting. | | |  |
|  | At 10:19, John Barrett again introduced Heidi Dix, Deputy Commissioner, Compliance, Legislative, & Regulatory Affairs. Ms. Dix acknowledged the welcome and thanked the SHRC and the office of human rights for the important work they do. | | |  |
| **LHRC Business** | At 10:20, the SHRC considered LHRC business. | | |  |
| LHRC Tour | Taneika Goldman reported that the OHR has been conducting the tour of LHRC visits since May 2019, and providing feedback to the committee. Mrs. Goldman will update the tour grid and bring it back so members can schedule their participation for the first two quarters of 2020. Last quarter, there was one LHRC meeting on the tour, which was held at The Barry Robinson Center.  Taneika Goldman is working on a position paper that she will bring to the SHRC for review and subsequent submission to the DBHDS State Board. | | |  |
| Extension Request | At 10:24, the SHRC considered an appeal timeframe extension request. Taneika Goldman presented the request to extend the timeframe to conduct a review. The complaint went to the LHRC in July, 2019 and was postponed until August. Mrs. Goldman summarized the history of scheduling the review of the complaint and detailed the LHRC’s, SHRC‘s and OHR’s involvement with the many dates the human rights program has attempted to review the complaint.  On behalf of the individual, Taneika Goldman requested the SHRC grant the request for extension so the SHRC can hear the complaint at their next scheduled meeting, in January.  *Upon a motion by David Boehm and seconded by Will Childers the SHRC unanimously granted the extension to the timeframe to review a complaint.* | | |  |
| Travel Mileage Rate | At 10:39, Heidi Dix talked with the SHRC on the topic of travel mileage reimbursement rates. Ms. Dix will talk again next week with staff about whether this can be addressed. | | |  |
| LHRC Membership | *At 10:41, Upon a motion by Will Childers and seconded by Pete Daniel the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(A)(1) for the purpose of discussion and consideration of matters lawfully exempt from the Freedom of Information Act, namely to consider LHRC membership.*  The SHRC considered LHRC membership. Taneika Goldman presented an LHRC resignation and recommendations for appointment.  Upon reconvening in open session all members of the SHRC certified that to the best of each member’s knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session, were discussed in the closed session.  *Upon a motion by Will Childers and seconded by Pete Daniel the SHRC unanimously acknowledges the following resignation and makes the following appointment:* | | |  |
| Resignation | Region 1  Northwestern Area LHRC: Resignation of Ms. Audrey Brown | | |  |
| Appointment | Region 2  Northern Virginia Hospitals LHRC: Appointment of Ms. Celia Kellerman | | |  |
| **Subcommittees** | At 10:44, Chairman Barrett called for reports from SHRC Subcommittees  Workplan / Membership Subcommittee: Julie Allen, Chairperson; Will Childers.  Julie Dwyer Allen reported that she signed the letter requesting the appointment of Timothy Russell to the SHRC. The letter will go to the DBHDS State Board for consideration at the December Board meeting.  Bylaws Subcommittee: Monica Lucas, Chairperson; Cora Swett; Taneika Goldman, Staff.  At 10:45, Monica Lucas reported that recommendations on Bylaws revision have been forwarded to the Attorney General’s Office for review. The revisions are underway to create more consistency in human rights committee Bylaws across the commonwealth.  Ms. Lucas was excited to report the subcommittee has received feedback on the Human Rights Access project. The goal of the project is to ensure that everyone receiving services in Virginia has a meaningful understanding of their rights. The human rights poster revision continues. The committee is developing tools designed to enhance understanding of rights and protections across a wide diversity of individuals. The project encompasses all entities involved in our system. The committee wants to have Braille posters made available. They are developing a phased system to roll out in stages.  Monica Lucas is working with the office of human rights and assigned VA Management Fellow in creating a voice recording to explain the regulations in a language people can understand.  John Barrett thanked Monica Lucas and the sub-committee on behalf of the SHRC. Deb Lochart said this project also came about by way of the Risk Management Committee. Results of this project will go back to the Risk Management committee and then to the independent reviewer for the DOJ Settlement Agreement. Heidi Dix suggested sharing this with the State Board, then to central office staff in a broader context.  Policy Subcommittee: Sandy Robbins, Chairperson; David Boehm, Taneika Goldman, Staff.  At 10:57, Taneika Goldman reported on activities of the Policy Subcommittee. FOIA resources already available on the department’s web site. Mrs. Goldman will bring handouts to the next meeting.  Officers Subcommittee: Pete Daniel, Chairperson; Sandy Robbins.  Nothing to report at this time. | | |  |
| **Approval of 2020 Meeting Dates** | *At 11:00, Upon a motion by David Boehm and seconded by Monica Lucas the following meeting dates were approved for 2020: January 30, March 5, April 23, June 11, August 27, October 15, November 19, and December 17.*  The SHRC restated its consensus on locations for 2020 Meetings. Specific locations are tentative until availability of space is verified:  January 30 - Central State Hospital (Tour of Hiram Davis)  March 5 - Prince William CSB (Tour of Dorm)  April 23 - Catawba Hospital  June 11 - Loudoun County CSB (CRI Sterling)  August 27 - TBD  October 15 - Western Tidewater CSB  Nov 19 - Service Source Program, Northern Virginia  Dec 17 - Poplar Springs Hospital | | |  |
| **Adjournment** | *At 11:35, having no further business to discuss the November 21, 2019 SHRC meeting adjourned. The next meeting will be held on January 30 in Region 4.* | | |  |

Respectfully Submitted,

John Barrett, Chairperson Kli Kinzie,

State Human Rights Committee Executive Secretary