

MANAGEMENT AND OPERATIONS COMMITTEE MINUTES  
BOARD OF SUPERVISORS MEETING ROOM  
CULPEPER  
NOVEMBER 2, 1998

The meeting was called to order by the Chairman, The Honorable Steve Martin, at 10:00 A.M. Senator Martin welcomed everyone and asked that the Committee members introduce themselves.

Members present were: The Honorable Steve Martin, *Senate of Virginia*; The Honorable Charles Colgan, *Senate of Virginia*; The Honorable Emmett Hanger, *Senate of Virginia*; Olivia Garland, *First Health Services, Corp*; and Vicky Fisher, *Mental Health Association of Virginia*. Also attending were Joy Yeh, Internal Audit Director, DMHMRSAS, and Fran Sadler, *Administrative Staff, Hammond Commission*. A list of others who were present at the meeting is attached to these minutes.

Carolyn Smith, Culpeper County Board of Supervisors, welcomed the Committee and thanked the members for their work and the citizens who were present for their interest and participation.

Senator Martin opened the meeting for public comment and fifteen individuals spoke to the Committee. Their remarks or summaries of their remarks are attached to these minutes.

There were five presenters on the agenda:

- **Susan Ferguson, Director of the Department for the Rights of Virginians with Disabilities.** Ms Ferguson became the director in August and is an attorney with experience in disability litigation. The department budget is \$ 2.3 million for FY 98 and 87% are federal funds.

Her goal is to provide effective protection, advocacy, and legal services to all individuals with disabilities. This includes:

1. The right to participate fully and equally in the public life of the commonwealth;
2. To be free from abuse and neglect;
3. To be free from discrimination and to receive appropriate service and treatment.

Ms Ferguson defended her credentials to hold this position by citing past accomplishments. She has increased the number of staff advocates and attorneys and also contracts the services of outside lawyers when needed.

She welcomes the attention on disability rights and is amenable to suggestions and concerns. Because the department functions as a check on facilities under the operation of the Secretary of Health and Human Services, it has been recommended that the department become an independent state agency with its own independent governing board. If that does not happen, Ms Ferguson feels that it would be easier for her to be accountable to another Cabinet member such as the Secretary of Administration. Ms Ferguson feels that her program is stronger than the internal advocacy program in the Office of Human Rights in DMHMRSAS. They have worked together but their staff contains no legal representation.

The Department has an enhanced presence in all facilities and is generally satisfied with the level of cooperation in gaining access to patients, information, and records. She would prefer that the facilities always document incidents involving patients in a manner that is accessible to outside review. Concern was expressed to Ms Ferguson about staff whose behavior toward patients is unsatisfactory and nevertheless remains employed. She said that her office investigates all of those cases that are brought to their attention, but employees have rights also. She urged the Commission to replicate what is good about the system and eradicate what is wrong.

- **David Lawson, *Director of the Northern Virginia Training Center***

Mr. Lawson was the former chairman of the Alexandria CSB. He gave a brief overview of the background of the state mental health system beginning before the department was formed in the 1950s and how it has evolved and changed. A major turning point occurred when the CSBs were created and individuals, who were believed to be improperly institutionalized, were released from the facilities. This changed the population of the training centers to individuals with severe MR and physical disabilities, and possible behavior problems.

Mr. Lawson said that another major event occurred in 1990 when he received notice from the Department of Justice that NVTC would be investigated. They sent their experts with a best practices model under which they were evaluated. Although NVTC was nationally accredited and Medicaid approved, the DOJ found them woefully inadequate. They followed the same procedure with every facility they visited.

It has been a painful eight-year process, but the positive result was that the department decided to establish facility-based standards and the best practices for Virginia. Mr. Lawson feels that great strides have been made in recent months, and that the first major draft of the proposed program will be ready by the end of the year.

Mr. Lawson said that the J&E Report concerned some facility directors, and he hopes that it will be amended. They feel that many of the assumptions were unfounded, especially regarding finances and good treatment. The directors have submitted a response to the DMHMRSAS. Mr. Lawson also believes that NVTC should remain where it is, and that facility directors should be professionals and not in the political arena.

The facilities have developed independently and have different organizations. Mr. Lawson said that the quality of staff is more important than whether they have the unit-based model or the departmental model. Some changes in organization will occur when the new standards are adopted.

The good relationship between NVTC and the CSB helps in the successful discharge and transition of individuals. NVTC still provides supportive services for some former residents. There is a waiting list for placement in the facility because of the lack of resources to obtain more space and staff.

In response to a question, Mr. Lawson said that the grievance procedure for employees was not satisfactory and allowed undesirable employees in some cases to remain in the system.

- **Brian Duncan, Executive Director Rappahannock-Rapidan CSB**

Mr. Duncan expressed his hope that the Commission will recommend a state of the art model for MHMRSAS in Virginia. He described the rural community that the CSB serves and the programs it provides. Approximately 5000 individuals are served each year.

Mr. Duncan emphasized the following four points:

1. Communities offer the environment where the best opportunity exists for productive lives and quality treatment;
2. Accountability for community programs should remain with locally appointed CSBs;
3. CSBs are uniquely positioned to both understand and manage a community and facility system of care;
4. Performance at the local level is a measure of how well a CSB meets the MHMRSAs needs of its citizens.

**Mr. Bert Lowe, Executive Director Chesterfield CSB**, informed the Committee about some of the prevention programs that are provided by different agencies in Chesterfield, but they are overlapping and there is no coordination. Mr. Duncan would like to see more collaboration in funding and delivering needed prevention programs. They feel the state's role should be in such areas as providing technical assistance in rural areas, requiring a standard of care for accreditation, and monitoring for funding purposes.

When consumers and their families have concerns about care and treatment, the CSB has a process for hearing and resolving issues, which is usually successful. If not, the local Human Rights Commission is available to help with dispute resolution. More active involvement by families in the decision making process is desirable.

Waiting lists for residential services for adults are established by priority of need and are continually validated. Some parents in Chesterfield will place their child on the list anticipating future needs and if they are next and not ready for services, will be passed over at that time. There is no problem with waiting lists for outpatient community treatment; it usually takes a week, a little longer for psychiatric services. *A copy of Mr. Duncan's remarks are attached to these minutes.*

- **Ms Elisabeth Poe, Executive Director Richmond Residential Services, Inc.**

Ms Poe was representing the Virginia Network of Private Providers, which is composed of private providers who work with individuals with developmental and/or emotional disabilities and have a relationship with DMHMRSAS or one of the forty CSBs.

Ms Poe discussed the Network's position on three recommendations from House Document 77:

- **Supports #29** The Network feels that consumers and families benefit from a choice of public and private service providers.
- **Supports #12** A Protocol for Consumer Choice was developed by a work group, composed of family members, CSB staff, and private providers, that addressed the issues of consumer choice and dispute resolution in the provision of Medicaid Waiver services to MR persons. The Network hopes that all CSBs will implement this protocol.

- **Comments on # 2** The Network would be willing to assist in identifying areas that lack private service providers. They don't feel that the DMHMRSAS should create a new program but ensure that all service providers have equal access and risk.

Ms Poe said that there are disincentives that currently hinder the development or expansion of private sector services:

- a. The use of local contracts eliminates consumer choice;
- b. A funding system is needed, such as vouchers, that would allow consumers to be served outside their original catchment area;
- c. Inadequate reimbursement rates for services;
- d. Lack of a state standard for quality of care.

*A copy of House Document No. 77 and Ms. Poe's remarks are attached to these minutes.*

- **Ms Janet Hill, Director of Office of Mental Retardation**

Ms Hill began by saying that the accountability systems of the department have been criticized as being weak, not directive enough, and not having compatible data systems. The system is under new management, and changes are in progress due in large part to the Department of Justice and Medicaid. Ms Hill presented an overview of DMHMRSAS operations and accountability systems.

She discussed the factors that are influencing the changes being made:

- Federal, state, and local financial accountability measures such as audits;
- Medicaid regulations;
- CSB Performance Contracts
- Compliance with Virginia Code and State Board Policies;
- Tracking of special initiatives;
- Licensure Regulation;
- Human Rights Regulations;
- Standards for Provider Certification;
- Standards for Employee Performance;
- Federal Grant Requirements.

Ms Hill reported on two department accountability initiatives that are in process and will be more meaningful measures of accountability. They are the Performance and Outcome Measures (POMS) program and enhanced Performance Contracts.

In response to a question, Ms Hill said that she was leery about separating MR and MH into separate departments because of creating another administrative structure, and the issue of dually diagnosed individuals becomes more complicated. . *A copy of Ms Hill's handout is attached to these minutes.*

Senator Martin asked that the members review the minutes from the October 16 meeting and contact Fran Sadler with any additions or corrections. **The next meeting will be on Monday, November 9, 1998 in Marion.** The meeting was adjourned at 2:45 P.M.

