

## Northwestern Local Human Rights Committee

The next scheduled meeting of the Northwestern Local Human Rights Committee will be on July 17<sup>th</sup> at the Warren County Workshop in Front Royal at **6:00 p.m.** Directions are attached.

### MINUTES OF THE MAY 8, 2007 LHRC MEETING

The May 8, 2007 meeting of the Northwestern Local Human Rights Committee was held at Timber Ridge School, located in Winchester, Virginia.

**Members Present:** Ms. Gretta Doering, Chair, Ms. Mary Louise Mattingly, Ms. Jean Snider, and Mr. Fred Sabia.

**Others Present:** Mark Seymour (Advocates); Mark Gleason (NWCS); Ralph Combs (SVCR); Amy Smith, Kim Sanders (Grafton); Brooke Rodgers (Lutheran Family Services); John Brauer); Karen Tompkins (Timber Ridge); Cathy Wolfe-Heberle (WC Workshop); Cassie Phipps and Elizabeth Rust (Family Preservation Services); Lana Hurt (Wall Residences); Kristian, Curt Sawyer, Connie K. (A Place To Call Home); Denise Wiitala (Bridging the Gaps); Clif MacDonald (Good Life Corporation); Holly Stiles (Rose Memorial); Theresa Bistel (DePaul Family Services); Paulette Garland, Caroline Soder (Heart Havens); Brian Kesner (Community Alternatives of VA); Christian Rousseau (Intensive Supervision); Melisa Figueroa (Shenandoah Valley Behavioral Health); and Gail Partlowe (NWCS).

**Call To Order:** Ms. Doering, LHRC Chair, called the meeting to order at 6:00 p.m., welcomed all in attendance. She thanked Timber Ridge for hosting the meeting and providing refreshments. Those in attendance introduced themselves and where they were from.

**Meeting Minutes:** Mrs. Mattingly made a motion to accept the minutes of the March 13, 2007 meeting and Mr. Sabia seconded, the motion carried.

**Public comments:** None

**Comments by Affiliates:** Timber Ridge School will be dedicating a new gym on July 14, 2007. Ms. Tompkins indicated that invitations to the event would be forthcoming.

The Warren County Workshop (Ms. Heberle) is in the process of changing their name to "Blue Ridge Opportunities". An announcement will be made when the formal name change occurs.

Rose Memorial is still awaiting licensure for their new program.

Grafton School has invited the LHRC for a special meeting on Tuesday, May 29<sup>th</sup> at 9:00 to see the new monitoring system they have in place.

**Advocate Update:** Mr. Collins sends his regrets for not being able to attend the LHRC meeting. Mr. Seymour covered a number of issues, including:

1. Commendation for (a) NWCS on the positive outcome regarding an incident that occurred at Sunshine House, and (b) to all providers for their timely reports of critical incidents.
2. The State Board (May 4<sup>th</sup>) reviewed the draft human rights regulations, and they have been forwarded to the governor for his approval. There may be certain sections that will be scrutinized, including one involving psychotherapy notes. Some providers keep two sets of records on a patient: One to respond to client requests for records and another for the provider's use only. These providers believe that the second set is protected and should not be given out. Others believe that only a single record should exist, and that it should be fully released upon request. The matter is unresolved at this time.
3. Another possible change involves the title and duties of the Legally Authorized Representative. The term "legally" may be dropped, and the duties fashioned along the lines of limited guardianships.
4. Until such a time as the proposed regulations are approved, all providers shall practice in accordance to the current regulations.
5. Mr. Seymour gave his deepest condolences for anyone who was personally affected by the Virginia Tech tragedy. He believes the events may, at some point, cause some changes in the regulations.
6. There will be a LHRC seminar this fall, maybe early September. They have sent out bids to find a place to hold the meeting. It will be open for all LHRC Members and liaisons.
7. Mr. Collins will be providing a training (June 29<sup>th</sup>) at NW Works on the "7 Principals of Self-Advocacy".

### **Review of Programs:**

**Rose Memorial:** Rose Memorial will be admitting an individual whose previous treatment involved the use of restrictive clothing. Rose Memorial is seeking permission from the LHRC to continue this restrictive procedure until such a time as the individual's transition to the program is completed, and a plan can be put in place to slowly eliminate the clothing. The goal is for the individual to transition to regular clothing. Ms. Stiles would report back to the LHRC on July 17<sup>th</sup> regarding progress made in completing this transition. Mr. Sabia made a motion to allow Rose Memorial to make the clothing modification and to report back to the committee on July 17<sup>th</sup>. Mrs. Mattingly seconded and the motion carried.

**Wall Residences:** The committee had reviewed material provided by Lana Hurt, including an addendum distributed during the meeting. At this time, they have 7 clients and will be receiving another one on June 1. Mr. Seymour noted that human rights regulations require programs to keep a "Complaint" booklet where complaints/concerns can be documented. An empty book could raise suspicions when audited.

**Grafton:** Grafton School requested feedback/discussion regarding the use of video-monitoring equipment within the group home setting. The expressed intent is for staff to be able to monitor two individuals for life-threatening medical concerns. The video cameras would be installed in bedrooms, and monitors situated in a manner that would

prevent viewing by non-staff. Family members have also endorsed these suggested actions. The central issue before the committee was the right to privacy/dignity versus imminent threats to health and safety of the individuals involved. In these specific cases, and based upon the information presented, it was felt that the use of monitoring equipment was appropriate. Consideration should be given to the least intrusive, but most helpful, type of equipment, and how the program will safeguard privacy and dignity. One camera has already been installed due to imminent concerns for safety. The LHRC recommended that Grafton School consider a combination of audio/video monitoring.

Mr. Sabia made a motion to (a) allow Grafton to continue with the monitoring system that already in place, (b) explore other monitoring systems that may be more effective, (c) coordinate their efforts until the next meeting with Mr. Seymour, who can guide and direct the program regarding rights protections, (d) Grafton would need to report back at the next meeting if other means of monitoring could be obtained. Mrs. Mattingly seconded and the motion carried.

**Community Alternatives of Virginia:** The LHRC asked to hear this presentation in open session as long as no patient identifying information was used. The expressed intent was that the following issue comes up periodically, and the LHRC would use this opportunity to educate all providers regarding the management of the issue.

The question before the committee is what human rights considerations should be made when two adult clients want to engage in sexual intercourse. The LHRC, LHRC Liaison, Human Rights Advocate recognize this issue often causes a number varying reactions among concerned parties. The LHRC also recognized that it does not possess important information about the clients in question, and can only rely upon that as presented via the providers.

Consideration should begin with the proposition that the ability to engage in sexual intercourse is a protected right. There are, however, a small number of human rights considerations that should be applied to the situation. These are:

- 1) **Decisional Capacity:** Does each client have the ability to understand in an informed way the relevant issues and implications. If there are doubts as to a client's decisional capacity in this regard, the provider should obtain an evaluation of the client's decision-making capacity specific to this issue. Note that the issue here is decisional capacity, which is not the same as the broader psychiatric diagnosis of the individual.
- 2) **Power differential:** Does one client exert undue control or influence over the other, such that engaging in sexual intercourse could not be viewed as voluntary.
- 3) **Medical issues:** It is noted that some cases such as these have associated medical issues that may inform the matter. While these may be important, the LHRC accepts that many individuals with sound decisional capacity engage in behaviors which may compromise medical status. The LHRC questions whether or not the individual can also exercise sound decisional capacity with respect to the potential implications to a medical health concern.
- 4) **Provider's Policy:** It is important that whatever decisions the provider makes, that it be reflected in a written policy.

In this specific case, it was agreed that an evaluation of decisional capacity would be an important first step. No other actions should be considered until such a time as the evaluation is completed.

It was recognized that programs, in general, would have a difficult time preventing two consenting adults from engaging in sexual intercourse off-site. Restrictions may be placed on-site and specific to where the rights of a couple may infringe upon the rights of other residents.

Mr. Gleason suggested that providers may want to consider writing a policy about this situation proactively. The LHRC can then review the policy with respect to human rights regulations.

Mr. MacDonald informed the group that David Hingsberger had written on this issue, and that his works are available on the internet.

Community Alternatives of Virginia also informed the LHRC that they are using an alarm monitoring device for an individual with a history of elopement. This device has been previously reviewed and approved by the LHRC, when another program also introduced it. Since there are no objections by the client, family, or provider to the use of the device, and it is not seen as restrictive in any way by the parties, the LHRC did not feel a vote was necessary.

**Old Business:** None

**New Business:** Ms. Snider had been re-appointed to the LHRC. Mr. Gleason also introduced Ms. Paulette Gardner, the new regional manager for Heart Havens and also Ms. Caroline Souder, supervisor.

Mr. Seymour at this time presented a small trophy to the LHRC from Ann Holton the governor's wife. This was in appreciation of the LHRC, and the time that the dedicated members volunteer in protecting the rights of others.

**Close of Meeting/Scheduling of Next Meeting:** The next LHRC meeting is scheduled for July 17<sup>th</sup> at Warren County Workshop – maybe Blue Ridge Opportunities by then at 6:00.

**Adjournment:** The meeting was adjourned at 7:33 p.m.

**Executive Session:** Mr. Sabia moved that the LHRC convene into closed session to discuss confidential client matters pursuant to the protection of privacy exemption as noted in Virginia Code section 2.2-3711(A)(4). Mrs. Matting seconded and the motion was approved.

Respectfully Submitted by : \_\_\_\_\_  
Gail R. Partlowe, NWCSB Administrative Assistant

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Gretta Doering, Chair

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Mark Gleason, LHRC Liaison