

**Josiah H. Beeman Commission
Meeting of May 18, 2007
12000 Government Center Parkway
Room 232**

In Attendance:

Mary Ann Beall, Chair, Fairfax-Falls Church Community Services Board
Joan Dodge, Senior Policy Associate, National Technical Center for Children's Mental Health (Georgetown University)
Chuck Hall, Executive Director, Hampton-Newport News Community Services Board
Mattie Palmore, Vice Chair, Fairfax-Falls Church Community Services Board, Special Magistrate
Sherry Rose, Peer Advocate
Carol Ulrich, President, National Alliance on Mental Illness of Northern Virginia, Member of Virginia Chief Justice's Commission on Mental Health Law Reform
Verdia Haywood, Deputy County Executive, Fairfax County
Margo Kiely, Josiah H. Beeman Commission Staff Director
Kathaleen Karnes, Management Analyst, Fairfax County
Jaclyn Wing, Josiah H. Beeman Support
Gary Axelson, Director of Clinical Operations, Mental Health Services
Sharon Arndt, HIPAA Compliance Manager
Ed Rose, County Attorney
Brian Worthy, Special Projects Manager
John DeFee, Director of Mental Health Services
Bonnie Dickens, National Alliance on Mental Illness – Northern Virginia (NAMI-NoVa)

2PM meeting started with introductions.

Health Insurance Portability and Accountability Act (HIPAA):

Sharon Arndt, HIPAA Compliance Manager, presented information about the application of HIPAA to the work of the Commission.

The Commission is covered under the workforce provision of HIPAA and, therefore, the members may be privy to private health information in the course of their work and evaluation of the system. For this reason, members of the Commission are required to be trained on HIPAA and to sign the acknowledgement form, "Commitment to Confidentiality and Acknowledgement of HIPAA Training," which demonstrates an agreement to work within the HIPAA regulations. These forms are to be kept on file. Personal medical information must be guarded and its use outside of the Commission's mission as described in the Charter and Work Plan is prohibited.

Consumers are free to opt-out of any conversation with the Commission at their own discretion. Consumers are to be informed that the Commission will comply with the provisions of HIPAA.

Ms. Arndt requested that a notation be placed in each client file indicating their voluntary participation in Commission conversations or interviews. She indicated that this was not a HIPAA requirement, but might be an additional layer of protection for the County. Much discussion ensued with concern expressed about the willingness of consumers to have such notes in their files, and about the equity of MH consumers and other Human Services clients. An agreement was reached that this request would be revisited by the HIPAA Compliance Manager and the County Attorney.

Ms. Arndt provided the Commissioners with contact information and invited them to call if they had further questions.

Virginia Freedom of Information Act (VFOIA):

County Attorney Ed Rose presented information about the Virginia Freedom of Information Act, and its application to the work of the Commission.

The Josiah H. Beeman Commission is covered by VFOIA as it is a Board appointed body engaged in work which affects the public. VFOIA covers any documents (electronic or otherwise) including, but not limited to, minutes, reports, personal notes, or recordings which relate to work being done for the public. Any or all of these can be required to be released.

The second substantial VFOIA issue involves the definition of a public meeting. Whenever there are three or more members (or a majority of members) discussing public business it is considered to be a public meeting. Public meetings require advance notice to the public. Any documents coming out of such meetings are public and have to be made available. The public, including members of the media, are entitled to attend any public meeting. For emergency sessions the public has to be notified when the notification goes to the members about the meeting.

VFOIA also prohibits electronic meetings. Instant messaging between members constitutes a meeting. E-mail between members is considered a letter unless the exchange is so frequent as to meet the (undefined) definition of “simultaneity,” which our County Attorney estimates as fewer than four hours.

VFOIA is to be interpreted to favor the right of the public to have access to information about the conduct of public business. All meetings must be documented, and there needs to be access to meeting documents for anyone who wants a copy.

This legislation is, however, not withstanding of privacy protection safeguards. Certain public “meetings” can be closed under provisions detailed in the legislation.

VFOIA requires actual physical presence of members at a meeting. This raised the question about the ability to use speakerphone for those who are disabled and cites a specific example. The County Attorney stated that as a “reasonable accommodation,” in accordance to provisions set

forth within the Americans with Disabilities Act (ADA), this might be permitted, but that in any instance of doubt the County Attorney's office should be consulted for guidance.

A copy of VFOIA was provided to each Commissioner.

Ms. Arndt and Mr. Rose were thanked for their participation.

Commission on Mental Health Law Reform:

Margo Kiely introduced Charles Hall and Carol Ulrich to discuss the work of the Virginia Commission on Mental Health law Reform.

Charles Hall gave some background about the development of the Commission. He pointed out that it was a result of the interest and concern of a Justice of the Virginia Supreme Court, and is now supported by the Court; the Governor's office; Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS); the universities; and the members of the task forces.

Initially, the focus was on the definition of "imminent danger to self or others," then broadened to include those incarcerated with mental health disorders and other concerns. Five task forces were formed: Commitment, Criminal Justice, Empowerment and Self-Determination, Juvenile Justice, and Access. The initial goal was for recommendations to come forth in 18 months to two years. The process has recently been greatly accelerated since the Virginia Tech tragedy.

The work of the Access task force was covered in Charles Hall's presentation titled "Commission on Mental Health Law Reform." Copies of this PowerPoint were distributed at the meeting.

Carol Ulrich spoke briefly about the Task Force of criminal justice, which she chairs, and invited the Commissioners to attend any of the sessions.

The Commission discussed some of the best practices around the nation. It was noted that Columbus, Ohio, always comes up when best practices are discussed. Columbus has 24/7 emergency support and shares resources across five community based centers. Other states have virtually no ER visits. The Commission discussed the importance of the advance health directive, by which a person decides ahead of time what should be done if they start to have symptoms.

The Commission discussed the need for a uniform policy and practice around Temporary Detention Orders (TDOs); the need for housing, including single resident occupancies; the need for "warmline" development to prevent situations from escalating into those requiring hotline or emergency intervention; and the need for statewide information sharing among CSBs.

Questions and Concerns:

Questions and concerns which were discussed included the right to treatment (citing Pennsylvania as an example); data about children and adolescents from Milwaukee and how keeping them served is much cheaper than not keeping them supported and having them go to jail later on; the economic modeling being used to demonstrate the budgetary effectiveness of this approach; new definitions of criminally insane vs. insane criminals; criteria regarding imminent danger vs. near danger; commitment needing to be a more respectful process; narrow criteria which prevents preventive care; and the need to review and revise the role of the "Special Justice."

Resolution for the Board of Supervisors:

Deputy County Executive Haywood thanked Ron Manderscheid, Sherry Rose, and Yvette Sangster for drafting this resolution that was discussed at the previous Commission meeting. He pointed out that the timing did not work out for the May meetings of the Board.

Mr. Haywood suggested that the resolution be forwarded for a Board proclamation for Mental Illness Awareness Week (October 7-13). With that timing, advocates, consumers, the Board of the CSB, and members of the Commission could be present in support.

With a revision to include "resilience" with "recovery" in the wording, this recommendation was accepted.

Zoomerang:

Kathaleen Karnes reported the results from an electronic survey of Commission members designed to gather feedback on proposed conversation sites and components discussed at the previous Commission meeting. Copies of the survey results were distributed.

There was discussion about how the process of facilitating the Conversations would go, and about the differences between the bus tours, the Conversations, and open forums.

Copies of proposed questions, opening and closing statements, and the conversations schedule were distributed. Commission members made minor modifications to the questions and recommended that a statement about HIPAA be added to the opening statement.

Meeting adjourned at 5PM