



COMMONWEALTH of VIRGINIA

DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

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Jack Barber, M.D.
INTERIM COMMISSIONER

PUBLIC HEARING

December 16, 2015

DBHDS

Jefferson Building

1220 Bank Street, 13th Floor

Richmond, Virginia

(9:00 a.m. to 11:00 a.m.)

MINUTES

I. CALL TO ORDER

At 9 a.m., Tom Kirkup called the meeting to order.

II. WELCOME AND INTRODUCTIONS

Mr. Kirkup welcomed those present and asked for introductions. Attendees were:

DBHDS:

Tom Kirkup, Member, State Board of Behavioral Health and Developmental Services

Deb Lochart, Director, DBHDS Office of Human Rights

Office of Human Rights Staff: Mike Curseen, Carrie Flowers, Beverly Garnes, Taneika Goldman, Tammy Long.

Ruth Anne Walker, DBHDS Regulatory Coordinator

DMAS:

Christopher L. Calloway, Sr., Health Care Compliance Specialist II, Division of Long-

Term Care, DMAS; J. Lynn Hamner, LPN-B, Health Care Compliance Specialist II,

Division of Long-Term Care, DMAS; Ann Folk Bevan, Member, State Human Rights Committee and, DOJ Settlement Senior Advisor. DMAS.

Two members of the public not identified arrived after introductions.

III. PURPOSE

Mr. Kirkup explained the purpose of the hearing was to receive comment on proposed changes to the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services [12 VAC 35 - 115]. The proposed changes are intended to streamline administrative process; improve program efficiencies; and enhance individual protections.

IV. HEARING PROCESS

Mr. Kirkup explained that, after receiving comments from the two members of the public present to speak, the hearing would remain open until 11 a.m., as advertised.

V. PUBLIC COMMENTS (*TIME LIMITED PER SPEAKER*)

1. Christy Evanko, BCBA, LBA, Mechancsville, VA.

Ms. Evanko stated a concern that licensed behavior analysts are not included in the language. While she understands the licensure process was just approved in 2012, there are almost 900 LBAs with expertise in the Commonwealth. Also, she expressed concerns of appropriate levels of supervision of behavioral treatment plans, especially those with restrictive methods included in the plans.

2. Keven Schock, BCBA, LBA, Ladysmith, VA:

In addition to his stated comments, Mr. Schock provided written detailed 'tracked' edits and comments within the proposed draft document. His stated concerns were:

- That these regulatory changes be in line with regulations from the Department of Health Professions, though he understands that language has evolved since this regulatory action was initiated.
- Unclear language in the section(s) related to local review, specifically who appoints those who do the review. It seems difficult to keep the process fair and honest if the provider appoints their review committee. He suggested that perhaps shifting the appointments to the Local Human Rights Committee or the State Human Rights Committee to resolve the conflict.
- Certain procedures that remain in the language are not needed anymore (i.e., the use of timeout), and put population at more risk. While he understands there will always be individuals who will need special procedures in place for more severe behavior, before such variances are put in place a fair amount of professional review and oversight should be put in place. It should be difficult to get approval and require a significant level of oversight. Also, for some people participating in some of those behavioral treatment plans, the level of consent is 'simple' - rather than 'informed.' It should be 'informed.'

VI. ADJOURNMENT

Ms. Walker adjourned the meeting at 11 a.m.