

Minutes
State Board of Social Services
August 18 and 19, 2004
City Center at Oyster Point
700 Town Center Drive
Newport News, Virginia 23602

Members Present

Julie Christopher, Chair
Danny Brown, Vice Chair
Maggi Luca, Secretary
Robert Spadaccini
Carol Ann Coryell
Nettie Simon-Owens
Jean Cobbs
Marilyn Rigby
William (Billy) Mitchell

Call to Order

The August 18-19, 2004 meeting of the VA State Board of Social Services was called to order at 9:00 a.m., Chairman Julie Christopher presiding.

Welcome & Introductions

Chairman Christopher welcomed newly appointed members Nettie Simon-Owens and Marilyn Rigby to the Board. Ms. Simon-Owens and Ms. Rigby both bring a wealth of knowledge in the field of social services to the Board.

Ms. Christopher welcomed and thanked Mr. S. E. Culpepper for hosting this meeting. He, in turn, welcomed local directors and asked them to introduce themselves to the new members.

Ms. Christopher announced that as part of this meeting, members would be visiting an Assisted Living Facility in Hampton, and the meeting would be formally adjourned following the visit.

Regulatory Review

Mr. Martin advised that as of August 17, the Department of Social Services has 90 regulations in place. A brief overview of how a regulation is numbered and which area it represents was provided for new members.

56 of the 90 are currently in process.

Of those 90-, 45 are in the process of being repealed (28 of the repeals relate to old AFDC regulations that will be replaced by the new TANF regulation)

Of those 90, 9 are in the process of being amended

Of those 90, 2 are in the process of a periodic review

10 additional new regulations are in the process of being promulgated

That totals 100 regulations and proposed regulations.

He reported there are 9 regulatory actions currently in public comment:

22 VAC 40-121-10 Standards for Licensed Family Day Systems, and 22 VAC 40-120-10 Minimum Standards for Licensed Family Day Care Systems, comment on proposed new regulations and repeal of existing regulation ends on October 8.

22 VAC 40-171-10 Voluntary Registration of Family Day Homes-Requirements for Contracting Organizations comment on proposed amended regulation ends on October 8.

22 VAC 661-10 Child Care Services, and 22 VAC 40-660-10 Child Day Care Services Policy, comment on proposed new regulation and repeal of existing regulation ends on October 8.

22 VAC 40-771-10 Local Department Approved Provider Standards, and 22 VAC 40-770-10 Standards and Regulations for Agency Approved Providers, comment on proposed new regulation and repeal of existing regulation ends on October 8.

22 VAC 40-901-10 Community Services Block Grant Program, comment on notice of intended regulatory action to amend ends on September 8.

Recently published actions include the final repeal of the 20 old AFDC regulations published on July 26, and will become effective on September 1. The new regulation 22 VAC 40-295-10 Temporary Assistance for Needy Families, was published as a final regulation on July 26 and will become effective on September 1.

22 VAC 40-330-10, Collection of Overpayments in the Refugee Other Assistance Programs, and 22 VAC 40-340-10 , Protective Payments in the Refugee Other Assistance Programs, final amended regulations were published on July 26 to be effective September 1.

Mr. Martin advised that possible action items for the October meeting included 22 VAC 40-201-10, Permanency Services-Prevention, Foster Care, Adoption, and Independent Living, proposed regulation; 22 VAC 40-740, Adult Protective Services-proposed regulation; 22 VAC 40-810, Fees for Court Services Provided by Local Departments of Social Services, notice of intended regulatory action to repeal (to be incorporated into 22 VAC 40-201) and repeal of the existing adoption and foster care related regulations being incorporated into 22 VAC 40-201.

There is the potential for seven final regulations to be on the Board's agenda at the December meeting.

Commissioner Comments

Department Organizational Update

A copy of the latest Department Organizational Chart was provided to members.

Commissioner Jones introduced Vicki Johnson-Scott as the newly hired director of Family Services. As a former social services employee, Ms. Johnson-Scott brings a wealth of knowledge and expertise to the department.

He also advised members that Solomon Abaugh had joined the department as head of Appeals and Fair Hearings. He also brings a great deal of expertise to the department.

Strategic Plan

Copies of the department's Strategic Plan were provided to Board members. Commissioner Jones asked for continued Board involvement of one or more members to serve.

John Wheatly reviewed the Strategic Plan for state fiscal years 2004-2006.

Mission Statement

People helping people triumph over poverty, abuse and neglect to shape strong futures for themselves, their families, and communities.

Vision

A Commonwealth in which individuals and families have access to adequate, affordable, high quality human/social services that enable them to be the best they can.

Values

Accountability

We maintain an organization and network that are both effective and good stewards of public funds and trust.

Integrity

Our individual and group actions demonstrate the highest ethical and professional standards and respect for our customers.

Effectiveness

We strive to maximize our resources and effectively meet the changing needs of our customers.

Innovation

As a learning organization we encourage the development of innovative ways of doing business.

Excellent Customer Service

Our customers are accustomed to prompt responses, accurate information and compassionate attention to their concerns.

Diversity

We recognize and appreciate the diversity of both our employees and our customers.

Goals

Enhance the independence, well-being and personal responsibility of citizens.

Establish a performance management system.

Ensure an integrated, effective information technology system.

Deliver high-quality customer-focused services.

Cultivate a diverse workforce capable of accomplishing the system's mission.

Optimize and maximize resources.

Members were reminded this is a "living document" and can be changed as things impact the system.

Mr. Spadaccini mentioned that he had worked on the original Strategic Plan and asked that past minutes be reviewed to see if someone else had been appointed in his place since he had not been included in on recent meetings. Ms. Rengnerth was asked to review minutes and advise Chairman Christopher.

Commissioner Jones stated that assisted living facilities remain in the news. These reports mentioned a 911 call that staff was allegedly asleep while on the job. It appears people were in need of assistance when police arrived. There have been subsequent occurrences in the news and he welcomes review of these facilities. He welcomes strengthening these regulations with the Board over the next year.

Commissioner Jones advised that members will receive an update on the Family Services Review during tomorrow's meeting; mentioning that groups are looking to successfully implement this Plan.

He reported there have been some revenue maximization challenges that were previously mentioned before the Board over the past months. The federal government, in a series of audits, has said the department failed to meet their approval and as a result will be penalized around seven million dollars and upward. In response, the department halted payment pursuant to this program while engaging in a negotiation that still continues. The department continues to negotiate and put new policies and procedures in place and will begin to continue with making payments in September. Specifics on these changes will be provided at the October meeting.

Action Items

22 VAC 40-25-10 Auxiliary Grants Program: Levels of Care and Rate Setting
Proposed Regulation

Richard Pyle was introduced and provided a brief overview of changes to the regulation since it was last approved by the Board.

For purpose of discussion and ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Coryell) moved to approve the revised, proposed regulatory package 22 VAC 40-25-10 entitled Auxiliary Grants Program: Levels of Care and Rate Setting to amend this regulation for publication in the Virginia Register subject to approval under the provisions of Executive Order Number 21 (2002) and moved to approve the fiscal impact analysis for distribution to local boards of social services.

Discussion:

Ms. Coryell shared a concern about privately owned facilities taking a person's life savings to care for them and then going out of business. Does the state provide funds to these facilities? Mr. Pyle agreed that funds are provided if they meet income and reporting guidelines. Mr. Martin advised the grant is given to the individual not the facility where they are housed.

Mr. Spadaccini reminded that several citizens come before the Board each year requesting them to raise the Auxiliary Rate for Homes. He advised the Board has received several pieces of correspondence that states in CODE that the Board sets the rate. He questioned whether the Board is shirking its duty by not setting the rate; and if so, what are the ramifications for not setting it.

Mr. Mitchell felt that if it is Board responsibility to set a rate; then they should execute their responsibility. The General Assembly could look at this as the Board is not executing their responsibility.

Mr. Martin will explore this further with Mr. Wilson and provide information at the October meeting. Mr. Wilson was asked if he could research this and bring the information back before close of meeting tomorrow. Mr. Wilson was unsure if he could have access to all of the information by this afternoon; however, he will try.

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Coryell) moved to table the existing motion until late afternoon in hopes that Mr. Wilson can provide further information that was requested. Motion carried with all in favor. Previous motion dies.

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Coryell) moved to remove from the table the motion on regulation 22 VAC 40-25-10 entitled Auxiliary Grants Program; Levels of Care and Rate Setting for further discussion. Motion to remove from the table carried with all in favor.

After further review of the CODE, Mr. Wilson advised that at a minimum, the regulations should address the process to be used in calculating the auxiliary grant rates for the facilities and homes. He also advised that the Office of Attorney General provides a letter of assurance that meets and goes further than minimum requirements.

Mr. Spadaccini stated the Board has historically gone above minimum requirements and feels the Board and department should go above minimum requirements, mentioning that historically the Board has recommended \$1200.

Commissioner Jones stated he was sympathetic with the proposal but did not feel it was a good idea. He felt that \$1200 should be the next step, not the goal. He felt that citing \$1200 in the regulation would hinder efforts of raising this amount in future years, especially since expenditures differ greatly from home to home. Mr. Spadaccini concurred with the remarks but felt citing a specific amount would put “teeth” in the regulation and assist the department in strengthening their position to approach raising the amount next year.

Mr. Brown asked why \$1200 is the magic number. Commissioner Jones advised this dollar figure was suggested by the Board; however, there is a wide-spread range in what facilities are charging.

Ms. Luca felt that perhaps the Board should look at the process setting, instead of rate setting. Commissioner Jones confirmed that the General Assembly has the final say on the rate. He encouraged members to list a minimum of \$1200 if the Board feels a dollar amount should be listed in regulation.

Mr. Mitchell stated the process should be ratified by the Board and felt members should have input and approval. He didn't feel appropriate attention had been paid to this in the past and asked that it be reviewed further in October. He felt it is less productive and more risky to have a specific dollar amount that couldn't be rationally explained. He doesn't have a problem with increasing the rate, but wants to be sure everyone knows the reason for the increase.

Ms. Coryell stated the figure that is now appropriated came from public comment given during a Board meeting.

Ms. Christopher agreed the process will be reviewed at the October meeting. Perhaps members can review what other states are doing.

There was concern from Dorothy Endres that from an eligibility stand point, the Board may be putting itself in jeopardy for a lawsuit. Mr. Wilson reminded members they are not setting the rate, only recommending a rate that is subject to APA.

Ms. Cobb stated she sensed some un-readiness as members weren't clear of the process. She advised she didn't have a problem with the increase to \$1200. Ms. Christopher advised that members can still affect the process. Mr. Martin advised that the memo before members today meets the requirement to affect the process. The second requirement is on rate setting.

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Coryell) moved to approve a substitute motion that the Board recommend an Auxiliary Grant rate for recipients that are authorized to reside in an assisted living facility or in an adult foster care should be in the amount of \$1200 minimum per month subject to approval by the General Assembly and available funds.. Voice vote taken.

<i>Ms. Christopher</i>	<i>no</i>	<i>Ms. Cobb</i>	<i>no</i>
<i>Ms. Rigby</i>	<i>no</i>	<i>Mr. Brown</i>	<i>no</i>
<i>Mr. Spadaccini</i>	<i>yes</i>	<i>Ms. Coryell</i>	<i>yes</i>
<i>Mr. Mitchell</i>	<i>no</i>	<i>Ms. Simon-Owens</i>	<i>no</i>
<i>Ms. Luca</i>	<i>no</i>	<i>Motion failed.</i>	

As this motion failed, Chairman called for a vote on the original motion.

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Coryell) moved to approve the revised, proposed regulatory package to amend this regulation for publication in the Virginia Register subject to approval under the provisions of Executive Order

Number 21 (2002) and to approve the fiscal impact analysis for distribution to local boards of social services. Motion carried with all in favor except no votes cast by Mr. Spadaccini and Ms. Coryell.

22 VAC 40-325-10 Fraud Reduction/Elimination Effort
Proposed Amended Regulation

George Sheer was on-hand to review the regulation and answer any questions.

Discussion:

Mr. Spadaccini referred to the department's response on page 5 regarding additional funding for this program and questioned the likelihood of additional funds. Mr. Martin advised they did seek additional funding; however, due to other funding priorities, no additional funding is available at this time.

Mr. Mitchell questioned whether this change is better for local agencies. Mr. Ben Owen advised locals are in a funding crisis. In the past, in order to receive full reimbursements, a local department had to comply with all pertinent law, regulation and policy, and collect overpayments, net refunds due to the federal government, which equal or exceed the local share of FREE Program costs. The revised regulation reiterates that reimbursement for program costs shall be paid from available federal funds, general funds and balances in the Fraud Recovery Special Fund. From the local standpoint, he felt this change is beneficial.

Mr. Wilson advised that under this regulation, there will be a process for local agencies to follow allowing them knowledge of what procedures are, and what amount they will likely be reimbursed if funds are available.

Ms. Cobbs advised that in meetings with local staff, she had heard concerns regarding timely reimbursement. Mr. Sheer advised local agencies are reimbursed monthly and had not heard of any concerns personally.

Ms. Luca asked what had to be accomplished in order to expand more funds. Mr. Sheer advised that collections must increase and locals can only do this by assigning staff to actively work on collections.

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Luca) moved to approve the proposed regulatory package to amend 22 VAC 40-325-10 entitled Fraud Reduction/Elimination Effort for publication in the Virginia Register subject to approval under the provisions of Executive Order Number 21 (2002) and approve the fiscal impact analysis for distribution to local boards of social services. Motion carried with all in favor.

22 VAC 40-705-30 Child Protective Services
Exempt Final Adoption

The only change to this regulation is the addition of a clause to the definition of physical abuse that clarifies this definition includes instances of caretakers allowing children to be present during the sale or manufacture of Schedule I and II drugs. The amendment is needed in order to reflect changes to the CODE made during the 2004 General Assembly.

Discussion:
None

ON MOTION DULY MADE (Mr. Brown) and seconded (Ms. Coryell) moved to approve the exempt final regulatory package 22 VAC 40-705-30 entitled Child Protective Services for publication in the Virginia Register subject to approval under the provisions of Executive Order 21 (2002) and the Administrative Process Act. Motion carried with all in favor.

22 VAC 40-745-10 Assessment in Adult Care Residences
Final Adoption

Mr. Martin reviewed this regulation. Several changes were made based on public comment received.

Discussion:
None

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Simon-Owens) moved to approve the final regulatory package 22 VAC 40-745-10 entitled Assessment in Adult Care Residences for publication in the Virginia Register subject to approval under the provisions of Executive Order Number 21 (2002). Under provisions of the Administrative Process Act, this regulatory action may be effective 30 days after publication. Motion carried with all in favor.

22 VAC 40-141-10 Minimum Standards for Licensed Independent Foster Homes
Final Adoption

Cynthia Carneal was on hand to discuss the regulation and answer any questions.

Discussion:

Ms. Coryell asked if the Board could strike the word “minimum” and use “standards for licensed homes” before the regulations become effective. Mr. Martin and Ms. Carneal advised this is already being worked on.

ON MOTION DULY MADE (Mr. Spadaccini) and seconded (Ms. Simon-Owens) moved to approve the final regulatory package 22 VAC 40-141-10 entitled Minimum Standards for Licensed Independent Foster Homes for publication in the Virginia Register subject to approval under the provisions of Executive Order Number 21 (2002). Under provisions of the Administrative Process Act, this regulatory action may be effective 30 days after publication. Motion carried with all in favor.

22 VAC 40-90-10 Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers
Periodic Review

Mr. Martin reviewed this Periodic Review and asked the Board to continue this regulation without change at this time.

Discussion:

None

ON MOTION DULY MADE (Mr. Brown) and seconded (Ms. Simon-Owens) moved to approve the periodic review report for 22 VAC 40-90-10 entitled Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers for submission to the Department of Planning Budget and the Secretary of Health and Human Resources as required by the provisions of Executive Order Number 21 (2002). Motion carried with all in favor.

22 VAC 40-690-10 Virginia Child Care Provider Scholarship Program
Periodic Review

Mr. Martin reviewed this Periodic Review and asked the Board to continue this regulation without change at this time.

Discussion:

None

ON MOTION DULY MADE (Ms. Luca) and seconded (Mr. Spadaccini) moved to approve the periodic review report for 22 VAC 40-690-10 entitled VA Child Care Provider Scholarship Program for submission to the Department of Planning Budget and the Secretary of Health and Human Resources as required by the provisions of Executive Order Number 21 (2002). Motion carried with all in favor.

Closed Session

ON MOTION DULY MADE (Ms. Luca) and seconded (Mr. Spadaccini) moved to go into Closed Session for the purpose of discussing personnel matters as permitted by subsection (a), paragraph (1) of Section 2.2-3711 of the CODE of Virginia. Motion carried with all in favor.

Certificate of Closed Meeting

ON MOTION DULY MADE (Ms. Luca) and seconded (Ms. Coryell) moved to return to open meeting, certifying that to the best of each member's knowledge only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the State Board of Social Services. Motion carried with all in favor.

Public Comment

Donna Douglas, director of Hanover County Department of Social Services provided the following comments:

Thank you for the opportunity to comment on 22 VAC 40-770 Standards for local departments of social services to approve and regulate providers including adult services providers, child care providers and adoptive and foster care providers.

I am here today on behalf of the VLSSE Child and Family Services Committee and would respectfully ask that these comments be included as part of the public comment and that you ask state staff and contractors to look at these comments and bring the responses back to you at your next meeting.

First, let me say that our committee is in favor of statewide standardized provider standards that are designed to enhance the safety, performance and well being of children entrusted into our care. We recognize that the Federal Child and Family Services Review outlined the system outcomes of provider and staff training. In their study, CFSR hypothesized that the stability of a foster care placement and the systemic outcome of retention of foster care providers was directly impacted by the extent of the training the provider has prior to and after accepting the placement of a child. Due to the findings from CFSR, VDSS is working towards mandating minimum training standards.

However, in order to achieve this goal we believe that such requirements should only be mandated to the extent that funds are available. Any effort to impose such regulations without serious consideration regarding the fiscal impact to localities would, in essence, be an unfunded mandate.

My comments are specifically targeted to the section of the proposed regulations pertaining to adoptive and foster care providers.

1. Page 3: There are no projected costs to the state or the localities in implementing these regulations. We believe implementation of these regulations will have a significant fiscal impact on localities and that the State should reassess the fiscal impact to recruit, train and approve adoptive and foster care providers. Will contractors and select foster parents (co-trainers) train 5,000 existing foster homes and an unknown number of potential foster families? Who will complete requirements for full approval? Where will funds come from to reimburse potential foster parents for training participation? The proposed regulations say the "local department" shall provide a minimum of 27 hours of basic orientation and training to each provider prior to placement of a child in the home. Does this literally mean the locality or a state approved contractor? In addition, the regulations state that the local department will provide a minimum of 12 hours annual in-service training. Currently, localities vary in the number of in-service hours required of foster parents. A fiscal impact statement should address an analysis of what localities are currently doing and assess impact of proposed standard on implementation. Although the exact impact is unknown, we know that the proposed requirements will have a manpower/resource impact on localities, not only in the delivery (including travel time) of the service but in the preparation time to develop the service. Although additional staffing might be available to localities using IV-E funds, they will still be required to provide a 25 percent match. This match requirement will have a fiscal impact on local budgets. In addition, the "no fiscal impact" does not take into consideration miscellaneous expenses for criminal records checks, training materials and other related expenses such as food, beverages, etc. needed during the training events. We also need to consider potential impact of driving up CSA costs for purchase of private child-placing agency approved providers as well as impact across other secretariats.

2. Regulations do not appear to address provisions to grandfather in existing foster parents. Will localities be able to exercise the allowable variance clause to exempt existing foster parents who choose not to participate in the training?

3. Regulations do not address ongoing placements with relatives/friends. Will localities be able to exercise the allowable variance clause to exempt these providers from the training requirements?

4. Regulations do not address need for increased payment to foster parents based on increased level of training required to become a professional foster parent. Currently, there is a wide disparity in rates of pay between locally approved foster homes and private child-placing agencies.

5. If localities lose existing foster parents because they are unable to meet minimum requirements, will the unintended consequence be an increase to CSA costs because localities will be forced to purchase the services from private child-placing agencies? Will private child-placing agencies be required to meet the proposed minimum standards?

6. Finally, who will monitor compliances? What are the consequences for non-compliance? Will penalties be imposed for non compliance?

The VLSSE supports the philosophy behind the proposed regulations, but only the extent that funds are available to achieve them. Regulations need to be flexible enough to recognize 121 various local levels of capacity, yet achieve consistency and standardization at the same time.

I appreciate your giving me the time to share these comments with you.

Donna Douglas
Chairman VLSSE Child and Family Services Committee

Discussion:

Ms. Luca thanked Ms. Douglas for her comment and stated that Ms. Douglas and her department had received an award from the National Association of Counties on a program that the Board was briefed on during their visit to her agency. Members congratulated Ms. Douglas and her department.

Legislative Proposals

Richard Martin provided members with a copy of the Department of Social Services Preliminary 2005 Legislative Proposals.

The Department of Social Services is submitting this proposal to ensure the improved care and protection of vulnerable populations in day and residential out of home care. These Assisted Living Reform Proposals have grown out of numerous changes the department has experienced in the assisted living program, including growth in the industry and its service to higher-risk residents, litigation and extensive media attention. Proposed changes include:

- Establish a requirement for licensure of assisted living facility (ALF) administrators, similar to the current requirement for nursing home administrators.

- Establish a mechanism for certification of medication aides who work in assisted living facilities, adult day care centers and children's residential facilities that would mandate criteria for certification, minimum performance standards, requirements for continuing certification, and disciplinary measures against certified medication aides who violate performance standards.
- Establish a mechanism for the reduction or increase in license duration when the licensee fails to maintain or exceeds compliance of the level for which the license was issued. This mechanism would allow the Commissioner to perform these actions based on the requirement that licenses must reflect the current level of compliance of a facility.
- Provide the Commissioner authority to summarily suspend the license of an assisted living facility, adult day care center or child welfare agency in cases where there is an immediate and substantial threat to the health, safety or welfare of persons in care.
- Add a requirement that provisional licenses be prominently displayed in a facility, along with the violations that gave rise to the provisional status. Also, include a requirement that all notices of intent to revoke or deny an application of renewal for a license and to impose an intermediate sanction be posted at every public entrance to a facility in sufficient size and distinction to advise consumers of serious violations. Currently there are contradictions in the CODE that both direct and prevent the requirement for posting these items.
- Allow the department to impose civil penalties on licensed assisted living facilities, adult day care centers and child welfare agencies on a per-day basis and increase potential civil penalties from \$500 per inspection to a maximum of \$10,000 per 90-day period.
- Direct the Board of Social Services to develop a supplement to the Uniform Assessment Instrument (UAI) to capture more specific and usable information about residents suffering serious cognitive, behavioral, and emotional disorders at the time of admission to an assisted living facility or when a periodic review is required or requested and would require the assessor to consider available information about the resident's psychiatric psychological functioning up to one year prior to being admitted to an assisted living facility.
- Require that assisted living facilities prepare and distribute to any prospective resident a public offering statement that discloses information about the services, policies, staffing patterns, fees and ownership structure of assisted living facilities that is in plain language that consumers can understand, can use to compare facilities prior to choosing one in which to reside, and can use to promote an enhanced quality of life while a resident is in the facility.

HHR-DSS-2

The purpose of this legislation is to eliminate the 20 percent match local departments of social services pay in the Auxiliary Grant (AG) Program. The approved AG rate for licensed assisted living facilities (ALF) and locally approved adult foster care (AFC) is administered by the Virginia Department of Social Services. The AG is a supplement to income for recipients of Supplemental Security Income (SSI) and certain other aged, blind, or disabled individuals residing in an ALF or AFC. An individual must be 65 years of age or older, or over the age of 18 and blind or disabled to participate in this program. The AG Program is managed by the 120 local departments of social services. This program allows vulnerable eligible recipients to live in an environment that supports their self-determination, allowing them to retain their dignity, autonomy, independence, and quality of life, and prevents their premature entry into more costly institutional care.

HHR DSS-3

The purpose of this legislation is to amend sections of the APS Act to establish enhanced protections for Virginia's vulnerable adult population, clarify the roles and responsibilities of APS without the Virginia Department of Social Services and of mandated reporters of APS. Recommendations are based on suggestions made by the APS Advisory Committee and other interested parties and a review of other states' APS Programs since the enactment of the Governor's APS Act, which was a major initiative of the 2004 General Assembly.

Specific recommendations in the legislative proposal include:

- Establishing, in cooperation with the Office of the Chief Medical Examiner, a system for review of suspicious deaths of vulnerable adults.
- Modify language regarding reporting suspicious deaths to the medical examiner and law enforcement.
- Clarifying language that many are interpreting to allow institutional screening of reports of suspected abuse, neglect, or exploitation before contacting APS.
- Clarify language regarding reporting of emergency and non-emergency situations.
- Clarifying language that many are interpreting to allow institutional screening or editing of reports of suspected abuse, neglect, or exploitation before contacting APS.
- Expanding and/or clarifying the list of persons mandated to report to Adult Protective Services.
- Establishing a time frame for medical facilities surveyors to report when onsite at a nursing facility.
- Determining whether APS has the authority to review cases in Veterans Administration or military hospitals.

- Eliminating the requirement that criminal investigative reports from law-enforcement agencies not be disseminated by the investigating agency or subject to public disclosure.

HHR-DSS-4

This legislative proposal addresses four issues identified in Virginia's Child and Family Services Review as areas needing improvement. The four issues are: initial training for new child welfare workers and on-going training for child welfare workers; completion of home studies for foster and adoptive families and allowance of dual approval; visitation of the child welfare workers with children while in foster care; and parental and child participation in the development of the child's foster care service plan.

This legislative proposal:

- Provides definition of "dual approval" of resource, foster and adoptive families;
- Provides a definition of "home study" in relation to resource, foster and adoptive families;
- Mandates new worker and on-going training for child welfare workers;
- Mandates the completion of home studies on resource, foster and adoptive families;
- Mandates initial and on-going training for resource, foster and adoptive families;
- Requires regular visitation between the worker and the child; and
- Requires involvement of the parent(s) and child, if age appropriate, in development of the service plan or documentation of the reasons for not including these parties in service planning.

HHR-DSS-5

This proposal would allow the department to create a performance-based funding model that rewards local departments that succeed in helping their clients obtain and retain employment. This proposal will allow savings from Temporary Assistance for Needy Families caseload reduction to be reinvested in programs that will provide post-employment and asset creation programs for former recipients.

HHR-DSS-6

This legislation is needed to permit individuals convicted of drug-related felonies after August 22, 1996 to be eligible to receive Temporary Assistance for Needy Families (TANF) and Food Stamps assistance. Currently, drug felons are treated differently than other felons, such as murderers and rapists, who are not eligible for TANF and Food Stamps based solely on the crime that they committed. Individuals convicted of drug-related felonies have been sentenced and served, have court imposed penalties and should not be further penalized by withholding public assistance benefits. Allowing the receipt of public assistance will permit these families to receive crucial financial supports, as well as access to employment assistance.

HHR-DSS-7

This proposal will create a more seamless, effective, and accountable workforce system by requiring all major workforce programs to participate in a system that tracks performance using the common workforce measures adopted by OMB; by more clearly articulating roles and responsibilities of major workforce providers at the local level; and by enforcing joint planning requirements embraced by previous workforce legislation.

HHR-DSS-8

The Virginia Drug Control Act does not address the administration of medication by child care providers. The objectives of the proposed legislation are to:

- Document an exemption for child care that is modeled after the exemption currently in place for the Department of Education;
- Require training for child care providers who administer medication; and
- Allow the Board of Social Services and Child Day Care Council to adopt regulations to support and mandate the training requirement.

These objectives are consistent with the 2002 National Health and Safety Standard for training and administration of medication. The national standards are a collaborative project of the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in child Care, and were supported by the Maternal and Child Health Bureau of the U.S. Department of Health and Human Services.

HHR-DSS-9

This proposed legislation will provide authority to the State Board of Social Services to provide continuing oversight by codifying a continuous prohibition of persons at religious exempt centers, from contact with children if they have an offense as defined as a barrier crime. The CODE, as currently written, refers only to refusal of employment or service of a prospective employee, volunteer, or any other person expected to be alone with one or more children enrolled in the [religious exempt] child day center who has an offense.

Without language codifying the continued prohibition of service, the State Board cannot require repeat background checks. The consequence is that, after the initial background checks, persons at religious exempt child day centers may be convicted of barrier crimes, other felonies in the last five years, or be the subjects of founded complaints of child abuse or neglect and the Department of Social Services cannot take any adverse action.

HHR-DSS-10

The proposed legislation will enable the Department of Social Services to forgive child support debt owed to the Commonwealth as well as interest on that debt in an amount equal to the total current support paid for a year or the total amount of arrears debt to the Commonwealth plus interest if that total were less than the sum of current support paid for one year. Current support would have to be paid each month of that year in order for the non-custodial parent to qualify for arrears forgiveness. This legislation is an outgrowth of the National Governors' Association Prisoner Re-Entry Policy Academy and the Virginia Department of Social Services' System Taskforce on Prisoner Re-Entry and Incarceration Services. In its application, however, it would apply to a wide array of non-custodial parents, not simply ex-offenders re-entering society.

HHR-DSS-11

This proposal would move the administration of the Neighborhood Assistance Program to the Department of Taxation in order to streamline administration and increase program efficiency.

If the transfer to Taxation does not go forward we suggest removing the reference to 501 (c) (4) organizations in the definition for "neighborhood organization" and placing a cap of \$500,000 in tax credits for any single Neighborhood Assistance project. The reference to a 501 (c) (4) is obsolete and placing a cap on tax credits would prevent a few organizations from dominating the program.

HHR-DSS-12

This proposed legislation will ensure that recipients of Temporary Assistance for Needy Families, whose children are removed from the home due to a Child Protective Service investigation, do not continue to receive Food Stamp benefits for those children.

HHR-DSS-13

This objective is to provide Worker's Compensation coverage to Temporary Assistance for Needy Families (TANF) recipients that are participating in community work experience. Currently, not all TANF recipients have Medicaid coverage so not all participants in community work experience would have coverage in case of an injury. This is a potentially dangerous situation for participants and a liability issue for the Commonwealth and local departments of social services. Making this change would ensure that there is coverage for injuries that may be sustained during participation in work experience.

HHR-DSS-14

The proposed legislation would add convictions for cruelty to animals to the screening criteria for employment or volunteer or contractual service that involves being alone with a juvenile in children's residential facilities. Adding cruelty to animals to the current list of screening criteria would further protect vulnerable children in these facilities.

HHR-DSS-15

This proposed legislation will correct an oversight in legislation passed by the 2004 General Assembly. It will provide statutory authority to the State Board to license child-placing agencies and children's residential facilities to provide independent living services in programs for persons between 18 and 21 years of age who are in the process of transitioning from foster care to self-sufficiency and voluntarily remain in foster care.

The CODE of Virginia gives explicit permission only to local departments of services to provide independent living services to persons between 18 and 21 years of age. Last year's original proposal to codify the policy in existence for several years allowing the

State Board to license child-placing agencies and children's residential services to provide independent living services to this age group has instead become a prohibition. It appears that exclusion of licensed child-placing agencies and children's residential facilities was a simple oversight.

HHR-DSS-16

This proposal would eliminate language that requires the State Board of Social Services to adopt a regulation for Voluntary Registration Contracting Organizations. These are agencies who wish to contract with the department to certify family day homes. The statute currently requires adoption of a regulation and the issuance of a contract to local agencies and community organizations for implementation of the voluntary registration program. The elimination of the requirement for adoption of a regulation would streamline both the Department's and the Board's work, by allowing for incorporation of qualifications and needs into the RFP.

HHR-DSS-17

Currently the CODE of Virginia requires a one year waiting period before applicants can reapply to operate an assisted living facility or adult day care center once the Commissioner refuses to issue or renew a license, and requires a six month waiting period for reapplication if the facility is a child welfare agency. This proposal will increase the waiting period before reapplication for child welfare agencies to one year to have consistent waiting periods for child care and adult care facilities.

HHR-DSS-18

This proposal would regulate all children's residential facilities under the Interdepartmental Regulations for Children's Residential Facilities whether or not the facility receives public funds and regardless of a facility's geographic location by:

- Eliminating the exemption currently found at § 63.2-1737 of the Code of Virginia that allows children's residential facilities (CRF) designated as child caring institutions (CCI) and not in receipt of any public funds to operate under separate minimum standards, and
- By repealing §63.2-1815 that exempts from state licensure and regulatory oversight any private school or charitable institution that does not receive state funds that is geographically located West of the Sandy Ridge and on the watersheds of the Big Sandy River.

Discussion:

Mr. Spadaccini referred to item 10, page 4 and shared his concern about the Child Support Enforcement Program's funding while the state is dealing with fiscal challenges. Commissioner Jones advised that the department is getting an opinion from the federal government on this prior to moving forward.

Mr. Spadaccini referred to item #12 and asked if he was correct in assuming TANF recipients currently removed were continuing to receive benefits. Mr. Wilson advised that transitional benefits are designed for families going off TANF. Federal regulation allows for transitional food stamp benefits to families.

Ms. Christopher reminded members and staff of her concern that children can be placed in a foster home where a 17 year-old could have a sexual felony against them and no background check is done due to their age. Mr. Wilson confirmed that a person 14 years or older could be charged as an adult. Ms. Christopher commented the Board had voted to pass the regulation several months ago, but with the understanding this issue would be addressed. Commissioner Jones will research this issue and get back to the Board.

Ms. Coryell thanked Mr. Martin for presenting the department's "legislative laundry list" so far in advance.

Mr. Coryell asked if it is appropriate for members to speak with their legislators about this list. She was reminded this is a "wish list" and not final at this time.

VLSSE Update

Mr. Owen stated this was the best communication with VADSS on legislative proposals they've had in years.

He advised that ALFs used to have different rates that were established by the Board many years ago. He agreed with members that it would be beneficial for the Board to review this issue further. He commented that foster care rate is around \$400 per month and asked that members keep this in mind when they are reviewing the rate for adults.

He reported the League has a draft of legislative proposals he will send to Ms. Rengnerth for Board distribution once completed.

He announced he was pleased to hear the Board is moving to a two-committee structure and offered his committee chairs as resources to the Board. He will explore this further with Chairman Christopher.

The next meeting of the League will be November 10-12, 2004 in Williamsburg. Information will be forwarded to Ms. Rengnerth for distribution to members.

Ms. Christopher announced that in light of the Board taking a more in-depth look at ALF's, she asked Lynne Williams to provide members with a list of questions that would be appropriate to ask when they visit the facility tomorrow. Each member was given a copy. She asked members to visit a small and large facility in their respective areas and bring back information gathered to the Board. She also mentioned new meeting procedures for work sessions. They will be addressed further under new business when she appoints committees.

Newport News LDSS presentation

Virginia Initiative for Employment not Welfare (VIEW)

View Mission Statement

Deliver an array of employment assessment, counseling, and supportive services to help TANF recipients strengthen individual and family functioning and foster long-term employment.

Statistics for fiscal year 04 were shared with the members. A brochure outlining this information is attached to the original minutes housed in the home office. In conclusion, it was reported that 64 percent of the Newport News VIEW population experienced major challenges to employment in fiscal year 2004. An intensive case management approach has yielded similar or better than average employment outcomes for the "hard to employ" population.

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Because of the success of this approach, two additional intensive case management resources have been retained for the 2004/05 program year. Members thanked Newport News staff for this very enlightening presentation.

Mr. Culpepper announced his agency would provide a hands-on computer lab demonstration following recess today. Members were also invited to attend a reception in their honor.

Recess for trip to Newport News Department of Social Services computer lab demonstration.

Thursday, August 19, 2004

Meeting reconvened at 9:00 a.m. Chairman Christopher presiding.

Minutes

ON MOTION DULY MADE (Ms. Simon-Owens) and seconded (Ms. Luca) moved to approve the Minutes from the June meeting. Motion carried with all in favor.

ON MOTION DULY MADE (Ms. Luca) and seconded (Ms. Simon-Owens) moved to approve the Orientation Minutes as presented. Motion carried with attending members in favor.

Board Bylaws

Al Wilson advised that due to recodification of the CODE of Virginia, CODE citations in the Bylaws must be updated.

ON MOTION DULY MADE (Ms. Coryell) and seconded (Mr. Brown) moved to request that Mr. Wilson and Ms. Rengnerth make the appropriate changes in the Bylaws and bring them back to the Board in October for approval by the Board. Motion carried with all in favor.

Future Meetings

Chairman Christopher advised the October 20-21 meeting will be held in Wytheville. Ms. Rengnerth was asked to contact Fredericksburg LDSS for the possibility of hosting the December 15-16 meeting.

Ms. Christopher also advised that he felt the Commissioner and Mr. Martin had requested there be no January meeting as the agenda was light; however, members were encouraged to attend the League reception that is held in January.

Mr. Spadaccini shared his concern that the Board should set meetings and not the department. He stated that Mr. Martin had reported earlier on “agenda heaviness” for the December meeting. Mr. Spadaccini suggested that some of this work load could be moved to the January agenda.

Ms. Christopher shared this was a valid reason to have a January meeting, but was concerned that a meeting had to be rescheduled this past February due to lack of a quorum. She stated that perhaps the real problem is that members need to uphold their responsibility to attend scheduled meetings. She doesn’t have any objection to holding a meeting as long as there is business to be conducted; however, she has concerns about expending funds for members to travel across state to arrive in Richmond and find no business can be conducted due to lack of a quorum.

Mr. Owen stated that the League holds a Legislative Reception in January each year that the Board attends. Mr. Spadaccini confirmed with Mr. Owen that Board participation is beneficial.

Mr. Brown stated he felt the January reception was beneficial to members as it provides the opportunity to speak with legislators.

Ms. Luca felt it was important to be in Richmond during the General Assembly; although in a meeting cycle of every other month, it may not be beneficial to meet in January if there isn’t work to perform. She agrees with other members that this is something that should be further reviewed at the October meeting.

Mr. Mitchell concurred that this should be discussed in December when members have a better outlook on upcoming agenda items.

Ms. Simon-Owens said December is too late for her to schedule a meeting and October would better suit.

It was decided by Board consensus that the January 2005 meeting issue would be discussed during the October meeting.

Old Business

Child Protective Services Out-of-Family Advisory Group

Ms. Christopher advised that due to CODE changes, she would reappoint new members to this group to ensure mandates are met.

Ms. Christopher asked Ms. Coryell (and she agreed) to continue serving as Board Liaison to this group.

New Business

Committee Assignments

Child Day Care Council

Julie Christopher to serve as liaison

CPS OOF

Carol Coryell to serve as liaison

Strategic Planning

Robert Spadaccini and Julie Christopher

Dates for upcoming Strategic Planning Meetings will be forwarded to Mr. Spadaccini for his review and commitment to attend. If the dates are in conflict to his attending, Ms. Christopher will appoint another member.

Chairman Christopher advised there will be a new structure to meetings beginning in October. Two separate work session meetings will begin at 9:00 a.m. and work until noon on regulations. The purpose of the committees is to gain knowledge for the purpose of regulatory changes that VDSS suggests, what the changes mean, who supports/opposes the changes and why. This information will be delivered to the full Board following public comment at 1:30 p.m. Minutes will be kept of each meeting in summary/bullet form. Members were encouraged to work with staff, League, and others as necessary to become better educated on the regulations.

The Commissioner would designate a department manager as the primary staff person for each of the committees. Logistic and meeting support would be provided by the Office of Legislative and Regulatory Affairs. At the Board's discretion, they may include local directors, members of the Child-Day Care Council, or others on their committee as circumstances dictate. Each or both of the committees might meet before the meeting. At the request of the Commissioner, the committees could designate a member to work with the various work groups and ad hoc committees that the department has working on policy or regulatory matters.

There would be two committees with four Board members appointed to each committee. Each Board member would serve on a committee. The Board Chair would be an ex officio member of each committee.

The committees would be Adult Programs, which would include Benefit Programs, Community Programs, Family Services and Licensing Programs. The other committee would be Child Programs that would include Child Support Enforcement, Family Services and Licensing Programs.

Adult Services Committee

Ms. Simon-Owens-Chair

Mr. Mitchell

Ms. Luca

Mr. Spadaccini

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Child Services Committee
Ms. Rigby-Chair
Ms. Coryell
Ms. Cobbs
Mr. Brown

Mr. Spadaccini clarified that the work sessions would be from 9-noon and each committee will have its own agenda received prior to the work session.

Mr. Spadaccini confirmed with the Chair that information would come before the committee in a Pre-Noira stage.

Child and Family Services Review

Lynette Isbell provided members with a review of the Program Improvement Plan and Summary. She reviewed Virginia's review findings; development of an Improvement Plan; system-wide priorities; statewide initiatives to address areas needing improvement, and identification of needed resources. A copy of this Plan and Summary are attached to the original Minutes housed in the home office.

Discussion:

Mr. Spadaccini asked if 3 percent was a reasonable goal and if Ms. Isbell thought feds would accept this. Ms. Isbell advised she felt it would be accepted. Mr. Spadaccini further confirmed that the League and locals had input in reaching the 3 percent goal. Ms. Isbell advised they were.

Mr. Mitchell stated it was too early to know what cost is associated with this Plan; however, he felt the General Assembly would take a very close look at it. If implementation of the Plan costs more than the \$2 million dollar penalty, they may not see an incentive to move forward.

Mr. Owens advised local agencies are in favor of the Plan; however, it cost a great deal of money to implement.

It was reported that Commissioner Jones is committed to put a budget amendment forward that will assist local agencies.

Ms. Christopher thanked Ms. Isbell for a wonderful presentation. Members were encouraged to contact Ms. Isbell should they have any questions.

Board Comments

Mr. Brown commended Ms. Christopher on a job well-done. He commented to Mr. Mitchell that Newport News is a beautiful city and Mr. Culpepper had done a very good job here. He stated he appreciated the hospitality, reception and tours provided to members during their stay.

Ms. Simon-Owens stated she looked forward to working with the Board and thanked everyone for their outstanding hospitality. She thanked Mr. Culpepper and staff for their presentation and office tour.

Mr. Spadaccini wished Carol Coryell and Danny Brown an early birthday wish. He welcomed Ms. Simon-Owens and Ms. Rigby to the Board. He also suggested that the Board reinstitute providing local agencies with an Award of Appreciation when they host a Board meeting. He felt this was a nice touch and didn't require a great deal of money.

Ms. Coryell thanked Mr. Culpepper for his hospitality. She welcomed newly appointed members Nettie Simon-Owens and Marilyn Rigby. Congratulations were offered to Ms. Christopher as Chairman.

Ms. Rigby echoed and affirmed comments heard earlier. She stated it was both a privilege and a pleasure to serve on this Board. She advised Newport News was home to her.

She was struck by the collaboration displayed in this room and looks forward to working with everyone. She thanked Newport News Social Services and Mr. Mitchell for the hospitality shown.

Ms. Luca stated this was her two-year anniversary on the Board. She commended the new members on how quickly they have adapted. This has been a very educational and productive meeting. She stated she is very pleased at the new direction the Board is taking. Congratulations were offered to Ms. Christopher on a wonderful job serving as Chairman.

Ms. Cobbs thanked everyone for their hospitality. She congratulated Ms. Christopher on a job well-done and welcomed new members. She thanked Newport News Social Services for the computer lab demonstration and mentioned particularly being impressed with the concept of train the trainer.

Ms. Christopher announced that her spouse works for Capital One and was very proud they have taken up the foster care issue. A booklet on this activity was shared with members.

She thanked Mr. Mitchell, Mr. Culpepper and staff for their hospitality. Special thanks were given to the drivers that chauffeured members to the reception, office tour, and assisted living facility tour.

She stated she appreciates the trusts involved that have opened lines of communication, questions, and suggestions on bettering regulations for the state.

Ms. Christopher thanked Ms. Rengnerth for a fantastic job and reminded the members that Ms. Rengnerth will be evaluated on job performance in September. Members were encouraged to provide input to Mr. Martin through email or postal mail. Ms. Rengnerth was requested to send a copy of her job description to Board members for input.

Ms. Coryell mentioned that Ms. Rengnerth had continued to provide exceptional job performance to members even though she had been faced with health challenges over the past year.

Assisted Living Facility Tour

Ms. Judy Cunningham, Director of the Devonshire Assisted Living Facility in Hampton invited Board members to tour this facility. The meeting was recessed until after their visit.

ON MOTION DULY MADE (Ms. Simon-Owens) and seconded moved to adjourn the August meeting of the State Board of Social Services. Motion carried with all in favor.

***Submitted by Pat Rengnerth
Approved October 2004***