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VERMONT PSYCHIATRIC ASSOCIATION

Minutes of the Executive Committee Meeting

June 16, 2006

Members Present: Drs. Danielson, Deppe, Graves, Kalibat, McMains, Pierattini, Schultz, Simpatico and Weker; and Steve Larose, VMS

Guests Present: Madeline Mongan, Carl Olsen, VMS; Allen Gilbert, Vermont ACLU

Minutes: The minutes of the May Executive Committee meeting were approved as written.

Announcements:

1. Upcoming VPA Meetings:

- a. Friday, July 21: chez Deppe, 1565 Colchester Point Road, Colchester
- b. August: no meeting; we're psychiatrists
- c. Friday, September 15: meeting with Fletcher Allen Residents
- d. Saturday, October 14, in conjunction with the Vermont Medical Society meeting at the Basin Harbor Club in Vergennes

Reports:

1. APA Assembly meeting: Drs. Weker and Graves summarized the actions taken at the APA's May Assembly meeting. Highlights included:
 - a. Psychiatrists role in interrogations: the Assembly approved a position fundamentally stating that psychiatrists should take no role in interrogating detainees; the American Psychological Association has assumed a more permissive stance.
 - b. Eliminating the use of antisocial personality disorder as a basis for civil commitment: an action paper was passed that called upon the APA to articulate the opinion of the psychiatric profession that antisocial personality disorder, in the absence of a comorbid condition, does not constitute a clinical basis for civil commitment of an individual.
 - c. "Strategic Manual" for dealing with managed care organizations and pharmacy benefits managers: this would create a source of information by which APA members can learn about the policies and requirements of specific MCO and PBM entities, and about strategies for addressing those requirements.
2. Private Practice Committee Report: Dr. Schultz reported that his committee would be creating a directory sheet that would provide contact information for managed care entities.

Old Business:

1. VSH Futures Project Update: Dr. Pierattini reported on the last Futures Committee meeting, at which the actuarial report for the plan was presented. Three different projections were undertaken, each postulating the development of a different degree of ancillary services. From this, the committee endorsed creating acute care resources for 50 beds. The Futures Committee later met with officials from the City of Burlington explaining their activities, including looking at possible sites on the Fletcher Allen Campus. Dr. Pierattini would like to see a proposal for the future state hospital acute care facility to be physically connected to the rest of the hospital. The Executive Committee will continue its discussion of this issue
2. Legislative update: Mr. Larose reported on the passage of Any Willing Provider legislation. Dr. Fassler had communicated his concerns that Magellan has been very slow to comply and had suggested that VPA consult with Magellan about this. The executive committee elected to defer action pending further information about this situation.
3. Primary Care Consultation: The VMS had been asked to provide a legal analysis of a VPA proposal to provide collective primary care liaison. Ms. Mongan and Mr. Olson presented their legal analysis of three different models of consultation: a voluntary program, such as exists in Maine; a paid consult project; and jointly negotiating with private insurers. There are certain things the VPA can and cannot do by virtue of being a 501 (c)(6) organization, which makes it a not-for-profit “business league.” Ms. Mongan gave an informal opinion to the effect that there would be no difficulty in doing a voluntary activity; however, she opined that a paid consultation service shouldn’t be pursued as it presents the difficulty of providing for “private inurement” of psychiatrists (which is contrary to the tenets of 501(c)(6) status. The question arises of whether a paid consultation program would need a certificate of need from BISHCA; the answer would depend on how much business volume would be generated.
Regarding liability issues raised by a volunteer process, Ms. Mongan stated that physicians’ individual malpractice coverage should cover the activity, although individuals ought to check with their insurers. As for the VPA’s group liability, she suggested contacting the APA to assure that they cover the VPA engaging in such a voluntary activity. In the event of a paid consult project (e.g., were the VPA to form another, independent entity), liability responsibility would have to be arranged between the entity and the individual psychiatrist.
Mr. Olson, a summer legal intern with VMS, reported on collective bargaining issues: Vermont does allow for some collective bargaining with a few state agencies by provider bargaining groups; there is nothing for private entities. There is no such provision for negotiating with private payers. These anti-trust issues are controlled by Federal law. Some information-sharing setups are permitted if they can be understood as “advocating” rather than “negotiating.”
Among the questions raised was that of whether the VPA could be found in violation of antitrust law even in a voluntary primary care consultation arrangement if other psychiatrists believed that the existence of such a program hindered their ability to do business. Ms. Mongan and Mr. Olson will pursue answers to these questions.

4. Distinguished Fellowship Applications: Dr. McMains reviewed the status of the applications of three members whom the VPA is endorsing for APA Distinguished Fellowship. All of those applications are proceeding apace.
5. Committee Assignments: the Executive Committee reviewed the VPA's committee structure and the chairs of those committees. The utility of having greater membership on the membership committee was noted. The newsletter will provide further information about the committee structure and membership.

New Business:

1. Sex Offender Registries: Allen Gilbert, director of the Vermont chapter of the American Civil Liberties Union, was invited to speak to the ACLU's position regarding sex offender registries. He reported that the sex offender bill that passed the legislature this year broadened the expanse of Vermont's registry and gave increased access to information about people not listed on the on-line registry but who are listed on the paper registry. There are no restrictions on how this information can be used. Mr. Gilbert described the recent incident in which an individual allegedly shot three sex offenders in Maine after investigating the sex offender registries of Maine, New Hampshire and Vermont. The ACLU has opposed sex offender registries. When Mr. Gilbert informed a local reporter of that position, he received numerous media requests for interviews. He noted that convicted, incarcerated, treated and released offenders have a low rate of recidivism and are among the most closely watched populations; the highest risk of future offenders is to be found among those who haven't previously offended, and especially family members of individuals.

Vermont has two registries: a "paper" registry and a smaller, on-line registry. The larger registry contains people who have been convicted of any sex crime of any severity, including such conditions as exhibitionism. The on-line registry contains a narrower listing of people convicted of more serious offenses.

The Executive Committee expressed interest in acquiring further education about possible treatment interventions for individuals with paraphilias prior to their offending. Possibilities include a VPA annual meeting or Grand Rounds venue.

2. Medicaid chronic care management: The executive committee discussed issues raised by Scott Strenio, MD, director of Vermont Medicaid, about how the program of chronic care management that Medicaid is developing can best apply to psychiatry and how it would best dovetail with existing mental health center case management functions. Dr. McMains noted that the difficulties that mental health has had in integrating into the Department of Health has centered on issues relating to co-morbid medical and psychiatric illness, which the chronic care management program addresses. There seem to be at least three different psychiatric populations that might benefit from different types of chronic care management: the severely and persistently mentally ill; co-morbid medical and psychiatric patients; and patients with significant psychiatric illness who are treated privately.

The meeting was adjourned.

Respectfully submitted,

Jonathan L. Weker, M.D.

The next VPA Executive Committee will be held on Friday, July 21, 2006 at 1:30 p.m. at the home of Sue Deppe, 1565 Colchester Point Road, Colchester. VPA members and Patriots may attend even if they are not members of the Executive Committee and are cordially invited to do so. Especially the Patriots. Directions will be emailed, or you can join the 21st century and use Mapquest.