

**Commonwealth of Virginia
State Board of Social Services**

**Department of Social Services
Central Regional Office
1604 Santa Rosa Road
Richmond, Virginia 23229**

August 15, 2018

Attending: Dr. Danny Avula (Chair), Mr. Kent Willis (Vice Chair), Ms. MaryAnn Boyd (Secretary), Ms. Lou Ali, Ms. Veronica Washington, Mr. William Boone, Mr. Clyde Santana, Mr. John Kines, Dr. Andrew Heck

Absent: Ms. Mona Malik, Ms. Joan Brennan

Also in Attendance: Mr. Duke Storen (Commissioner), Ms. Ellen Malenke (Assistant Attorney General) and Mr. Eric Reynolds (Assistant Attorney General).

Meeting called to order at 10:00am - Dr. Avula

Comments from Commissioner - Duke Storen

Commissioner Storen updated the Board on federal activities, including the Farm Bill as related to SNAP and TANF. He also updated on Family First Prevention Services Act and Medicaid expansion. Commissioner Storen referenced the final Child Care Program regulation, which the Board adopted in June 2018, noting that the final regulation and other related actions represent positive changes. He noted that the agency continues to work with the parent cooperative community regarding the final Standards for Licensed Child Day Centers. The plan is to have the final regulation before the Board in October.

Review of Board Role & Responsibilities - Dr. Avula

Dr. Avula led a general discussion around the Board bylaws appendix, "A Summary of Principle Powers, Duties and Responsibilities of the State Board of Social Services."

Discussion of Pittsylvania County - Duke Storen

Commissioner Storen asked Chief Deputy Commissioner J.R. Simpson to lead the discussion. Mr. Simpson provided background on concerns regarding the Pittsylvania Board of Social Services and the impact on the local department. Commissioner Storen asked the Board to exercise their statutory authority under § 63.308. The decision was made to defer the discussion to the afternoon.

Substance Use Disorder & Parental Visitation - Carl Ayers, Director, Division of Family Services

Mr. Ayers discussed development of a visitation plan and shared the visitation plan template with Board members.

COMMENT PERIOD

Comment from the Virginia League of Social Service Executives-Andy Crawford, President Mr. Crawford provided an update on issues impacting local departments of social services, including the difficulty of attracting and maintaining knowledgeable, experienced staff.

Sherry Flanagan, Director of Pittsylvania Department of Social Services, conveyed concerns regarding the actions of a member of Pittsylvania's Local Board of Social Services and the negative impact it is having on her staff and agency operations.

Dexter Miller, Rachel Dunford, Linda Adkerson and Laura Bennet, Pittsylvania Department of Social Services, reiterated concerns regarding the situation with the Pittsylvania Board of Social Services and the impact on the agency.

Molly Gareis, Andrew Pennock, Dianne Rose, Marie Sloan and Ashley Heacock, Virginia Cooperative Preschool Council, expressed concerns regarding the parent cooperative training provisions in the final Standards for Licensed Child Day Centers regulation.

Jane Jones, Early Challenges, shared concerns regarding child care regulations that are more stringent than the federal Child Care & Development Block Grant.

Mark Reed and Susan Lawrence reiterated their concerns about the Rockbridge Area Board of Social Services and their request for removal of certain members by the State Board of Social Services. Susan Lawrence read a letter from Ashley Ford, who was unable to attend the meeting.

Matt Henderson conveyed his family's tragic experience with an assisted living facility in Nottoway County. Chairman Avula asked Mr. Henderson to provide information to him via email him so that the agency can follow up.

Rockbridge Social Services Board Investigation

Mr. Willis provided background on the investigation and the process by which the investigation team (Mr. Willis, Dr. Heck, Mr. Boone) conducted the investigation. The team submitted a report to the Board on August 13, 2018. Dr. Heck briefed members on the team's observations and assessment. He noted that, while many concerns were substantiated, the team concluded there is not sufficient cause to remove or suspend any member of the local social services board. Mr. Boone, referencing the report, spoke to challenges and to the team's list of recommendations for the Commissioner. Amendments to the report were offered by Mr. Kines and Ms. Ali, and incorporated into the report.

On motion duly made, (Ms. Washington), second (Ms. Ali), the Board approved the report as amended. Motion approved with all in favor. A copy of the report is attached to the meeting minutes.

Discussion of Pittsylvania County (continued)

The Board determined that, because the Commissioner requested the investigation, the Board is required to investigate. Dr. Avula appointed an investigative committee comprised of Ms. Ali and Mr. Santana to take the lead on gathering information and reporting to the Board at the October 2018 meeting, for the purpose of determining whether cause exists for suspension or removal of the local board member. Dr. Avula agreed to assist the committee. At the conclusion of the meeting, Ms. Ali withdrew from the committee, leaving Dr. Avula and Mr. Santana to take the lead on the investigation.

ACTION ITEMS

1. **Approve June 2018 Meeting Minutes**
On motion duly made, (Ms. Washington), second (Mr. Willis), motion approved with all in favor.
2. **Foster Care Placement Agreements**
On motion duly made, (Mr. Boone), second (Mr. Santana), motion approved with all in favor.
3. **22VAC40-201, Permanency Services-NOIRA**
On motion duly made, (Ms. Boyd), second (Mr. Willis), motion approved with all in favor.
4. **22VAC40-191, Background Checks for Child Welfare Agencies-NOIRA**
On motion duly made, (Mr. Kines), second (Ms. Washington), motion approved with all in favor.
5. **22VAC40-705, Child Protective Services-Proposed**
On motion duly made, (Ms. Ali), second (Mr. Boone), motion approved with all in favor.
6. **22VAC40-221, Additional Daily Supervision Rate Structure-Proposed**
This action item was rescheduled for the October 2018 meeting.
7. **22VAC40-880, Child Support Enforcement Program-Fast Track**
On motion duly made, (Mr. Santana), second (Ms. Washington), motion approved with all in favor.
8. **22VAC40-920, Appeals of Financial Sanctions for Local Departments of Social Services-Revised Final**
On motion duly made, (Mr. Kines), second (Ms. Ali), motion approved with all in favor.

Regulatory Update – Karin Clark

Ms. Clark reviewed the regulation status report, noting the change in status of five actions since the Board's June 2018 meeting.

Review of Board Bylaws - Dr. Avula

Dr. Avula appointed a committee comprised of Mr. Kines and Mr. Willis to review the bylaws and report any recommended amendments at the October 2018 meeting. Ms. Malenke will provide assistance to the committee as needed, to ensure consistency with the Code of Virginia.

Board Member Requests for Future Information

- **Ms. Washington** would like clarification on a Board member's role and boundaries when providing assistance to local departments in their region.
- **Mr. Boone** would like clarification on a Board member's ability to lobby the General Assembly.

Meeting adjourned at 4:05pm.

TO: Virginia State Board of Social Services

FROM: Investigation Team *

DATE: August 13, 2018

RE: **Investigation of the Rockbridge Area Department of Social Services
Board of Directors, January 1, 2013 to December 31, 2016.**

Background

In the fall of 2017, Lexington residents Mark H. Reed and Susan Lawrence asked the Virginia State Board of Social Services (State Board) to conduct an investigation into a series of allegations made against the Rockbridge Area Department of Social Services Board of Directors (RADSS Board) concerning its failure to properly perform its duties under state law. The allegations focused on the failure of the RADSS Board to act on problems with RADSS staff, especially the CPS unit, that were documented in a Quality Management Review conducted by the DSS Regional Office and also were the subject of a subsequent Special Grand Jury inquiry.

At its meeting on December 20, 2017, the State Board voted to conduct an investigation into the allegations covering January 1, 2013 through December 31, 2016, the time period during which the alleged problems occurred. State Board President Danny Avula appointed a team composed of several board members, assisted by counsel from the Office of the Attorney General, to conduct the investigation and report to the full board.

Authority

Section 63.2-216 of the Code of Virginia authorizes the State Board to “initiate investigations and consider problems and make recommendations to the Commissioner or to the Governor.” Section 63.2-220 gives the Board the power “to hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents, to administer oaths and to take testimony thereunder.” Under section 63.2-308, “members of any local board may be suspended or removed for cause by the Board...”

* State Board members William B. Boone, Dr. Andrew Heck, and Kent Willis. Legal assistance provided by Assistant Attorney General Ellen R. Malenke, Counsel to the Virginia State Board of Social Services

Although the Investigation Team knew from the beginning that the State Board's authority to act would be limited to determining if suspension or removal of RADSS board members were warranted under 63.2-308, it also understood that it would be free to comment or make recommendations on any and all relevant issues uncovered during the investigation.

Investigative Procedure and Timeline

Because the State Board had never before conducted an investigation into allegations against a local board, there were no procedural precedents to follow. With this in mind, the Investigation Team chose to conduct a broad investigation utilizing the most effective tools at its disposal, primarily the authority to subpoena documents and take sworn testimony. A chronological list of investigative actions taken by the Investigation Team follows:

December 20, 2017: Notice of Investigation and Hold Notice of Documents sent to Duaine Fitzgerald, RADSS Board Chairman

December 28, 2018: Request for Documents sent to Fitzgerald. The request sought all the materials provided to the Special Grand Jury for its inquiry, as well as the minutes, notes, memoranda, files, reports or correspondence received or created by RADSS Board from January 1, 2013 through December 31, 2016.

January 2018: The Investigation Team received approximately 1,000 pages of documents in response to the aforementioned Request for Documents

May 30, 2018: The Investigation Team met for approximately two hours with Mark Reed and Susan Lawrence in Lexington to review their allegations.

June 1, 2018: The investigation Team, with a court reporter present, interviewed under oath all members of the RADSS Board who both served on the board for some or all of the period under investigation and were serving on the board at the time of the interviews. Attorney Michael Bedsaul from the Christiansburg office of Sands Anderson represented the RADSS Board and was present for all interviews. The RADSS board members interviewed were:

Duaine Fitzgerald (resigned July 19, 2018)
John Butler
Vicki Turner
Bill Spence
Teresa Fainter
Betty Jones (resigned July 27, 2018)

June 1, 2018: The Investigation Team also interviewed, with a court reporter present, Linda Maini, a member of the Special Grand Jury that looked into possible criminal activities by RADSS staff.

June 20, 2018: The Investigation Team interviewed Captain Tony McFaddin of the Rockbridge Sheriff's office. McFaddin's duties during the period under review brought him into regular contact with the RADSS CPS unit. McFaddin's name had come up in earlier interviews and in the Special Grand Jury Report as someone with knowledge of the problems at RADSS.

August 6, 2018: The Investigation Team interviewed Susan Reese, director of the Piedmont Regional Office of DSS during the investigation time frame. The Regional Office conducted the Quality Management Review that exposed the problems at the RADSS CPS unit.

General Observations

From the interviews and documents made available to us, the Investigation Team came to several conclusions regarding the environment in which the RADSS Board operated during the time frame covered by the investigation.

- Individuals who were appointed to serve on the RADSS Board, including the six interviewed by the Investigation team, entered a predominately passive culture and were never trained to understand the full depth and breadth of their responsibilities.
- Reports from various individuals indicate that while the RADSS Director knew about significant problems with the CPS unit, she did not share this information with RADSS Board members.
- We found no evidence that RADSS staff other than the director who were aware of the problems at the CPS unit ever contacted members of the

RADSS Board to complain before the week that the board received information about the Quality Management Review

- We found no evidence that the RADSS Board ever received complaints from the community regarding RADSS staff or program operations before the week that the board received information about the Quality Management Review.
- RADSS Board meetings, which were largely orchestrated by the RADSS director, were conducted in a manner that provided little information to the Board about the operation of the agency.
- Other than to report on specific cases in closed session, during the three years examined by the Investigation Team, there is no evidence that CPS or child abuse prevention in general was mentioned at a board meeting.
- Although the Piedmont Regional office knew of problems with the RADSS CPS and shared its concerns with the RADSS director prior to conducting the Quality Management Review, the RADSS Board did not receive this information.

Assessment and Recommendation Regarding RADSS Board

The Quality Management Review conducted by the DSS Regional Office and released in February 2016 made it clear that the CPS unit at RADSS perilously underperformed its duties and was rife with procedural deficiencies and outright malfeasance. Once the report was released, the RADSS Board acted to fix the problems identified in the QMR and has since participated in trainings designed to make it a more fully engaged and responsible administrative body.

Although our investigation took us in many different directions, there was one question that was paramount: Did any of the RADSS board members know of the problems with the RADSS CPS unit prior to the release of the QMR and fail to act to correct them? Given the severity of the problems at the CPS unit, failure to act under such circumstances would likely be construed as cause for removal.

It is our assessment, however, that RADSS board members did not have sufficient information to take action to correct problems created by RADSS staff. It is also our assessment that if the RADSS Board had acted as a fully engaged

administrative body, it is likely that it would have learned of these problems earlier and taken corrective action.

The responsibility for the problems at RADSS is shared among RADSS Board members who accepted a passive role, the RADSS agency director who chose not to share information with the board about ongoing problems with the CPS unit, and the State Department of Social Services, which did not ensure proper training or provide appropriate oversight to the local board.

We conclude that there is not sufficient cause to remove or suspend any members of the RADSS Board and that such removal or suspension would not serve the best interests of the communities or individuals served by the agency at this time.

Challenges to Improving Conditions

There are three overarching issues that create challenges to any efforts to improve the conditions that led to the failures we investigated.

First, the Virginia Department of Social Services is charged with oversight of the locally administered agencies with little authority over those agencies.

Second, the primary Virginia DSS staff responsible for interfacing with the local agencies are those in the regional offices. These very few staff members are responsible for about 22 local agencies per region, and some of these regions cover an unworkably large geographical area. Proper oversight will likely require increased staff capacity.

Third, the pay for local agency employees is extremely low compared to other professional positions in their own communities.

Recommendations to the Commissioner

During our inquiry, the Investigation Team became aware of systemic deficiencies that likely played a role in the breakdown of the administrative and service delivery systems at RADSS. We recognize that both the local board and the state staff have taken important initial steps to improve these deficiencies. We ask the Commissioner of the Virginia Department of Social Services to consider the following recommendations to solidify and expand upon these initial improvements:

The Department of Social Services should require members of local boards, whether advisory or administrative, to receive a minimum level of orientation training and thereafter annual training on their roles and responsibilities. Part of this orientation should include educating board members on reports they should expect from agency directors (e.g., APS division, CPS division, Benefits).

The Department of Social Services should develop an information guide that local governing boards are encouraged to provide to prospective board members.

The Department of Social Services should form a committee composed of regional directors and representatives of the Virginia League of Social Services Executives to make recommendations regarding best ongoing oversight practices by the regional offices to ensure quality services at local agencies, with proactive quality management strategies as a priority.

The Department of Social Services should encourage each local board to provide an annual report to both its local governing body and the commissioner that contains information on board composition, initiatives accomplished, and challenges encountered.

The Department of Social Services should review changes in operation at the regional offices and elsewhere in the agency that occurred in response to this crisis and institutionalize those that are deemed effective.

The Department of Social Services should provide incentives to the Virginia League of Social Services Executives to work with each regional office to hold annual regional training programs/conferences for local agency board members.

The Department of Social Services should use its public relations resources to promote a positive view of the work and value of local agency boards.

The Department of Social Services should investigate ways to enhance the staffing patterns at the regional offices.

We request that the Commissioner periodically report to the State Board on progress toward meeting these recommendations.