CALL TO ORDER

The July 12, 2012, meeting of the South Carolina Mental Health Commission was called to order at 10:30 a.m., by Alison Y. Evans, Psy.D., Chair in room 320 of the SCDMH Administration Building, 2414 Bull Street, Columbia, SC. Dr. Evans welcomed everyone to the meeting. She acknowledged the card left at her place advertising the silent auction in conjunction with the S&S Art Supply gallery exhibition of the Art of Recovery. Mr. Jeff Ham, Program Coordinator in Community Mental Health Services, delivered the invocation.

INTRODUCTION OF GUESTS

The following guests were acknowledged: Sam Waldrep and Jeff Saxon of the Department of Health and Human Services; Gloria Prevost of Protection and Advocacy; and Shanna Amerson and Hannah Kelly of Capitol Information Affiliates. Ms. Amerson mentioned that she will be leaving Capitol Information Affiliates and Ms. Kelly is her replacement.

PRESENTATION OF RESOLUTION

Dr. Evans explained that the Commission wanted to recognize the awards that Mr. Magill has recently received. To that end, the following Resolution was presented:

Whereas: The members of the South Carolina Mental Health Commission express our congratulations to Mr. John H. Magill upon his receipt of two Resolutions; one from the Medical University of South Carolina for his service to the citizens of South Carolina, and his contributions to behavioral healthcare by his tenure at the South Carolina Department of Mental Health; and one from the Charleston County Bar Association for convening and organizing an annual seminar for attorneys and judges on the issues of substance abuse and ethics, and working diligently on this effort for over 25 years; and

Now therefore: We express our continuing appreciation to Mr. Magill for his work as State Director; and order that a copy of this Resolution be made a part of the Commission’s permanent records.

July 12, 2012
Dr. Evans explained that the Commission elects new officers every year in July, as per the Commission’s Bylaws.

On a motion by Buck Terry, seconded by Joan Moore, the Commission re-elected Alison Y. Evans, Psy.D., as Chair. All voted in favor; motion carried.

On a motion by Buck Terry, seconded by Rod Rutledge, the Commission re-elected Joan Moore as Vice Chair. All voted in favor; motion carried.

The Commission approved the following sets of minutes:

On a motion by Rod Rutledge, seconded by Jane Jones, the Commission approved the minutes of the Facility Presentation of June 7, 2012. All voted in favor; motion carried.

On a motion by Buck Terry, seconded by Joan Moore, the Commission approved the minutes of the Business Meeting of June 7, 2012. All voted in favor; motion carried.

Mr. Magill presented those items listed under the Monthly/Quarterly Informational Reports section.

Concerning the Public Safety Report, Mr. Binkley said that Public Safety’s investigator recently left to assume another position and other senior Public Safety officers are handling investigations.

Regarding the State Law Enforcement Division (SLED) Report, Mr. Binkley said that the process for investigation of cases of alleged abuse and neglect is going well. Rochelle Caton monitors all of the outstanding cases and follows up on them regularly. Of the 25 cases of alleged abuse that are pending investigation, five are being investigated by SLED, 15 cases have been referred to the Long Term Care
Ombudsman, four cases have been referred to local law enforcement, and one case was referred to the Attorney General. Mr. Binkley said that the working relationship between SLED and DMH continues to be positive.

Mr. Binkley said that there is nothing unusual to highlight on this report. All complaints that are filed are followed up in a timely manner. Mr. Binkley said that there is one legislative change that will impact the Office of Client Advocacy. The Long Term Care ombudsman will no longer be responsible for investigating non-criminal cases of abuse and neglect in the Sexually Violent Predator Treatment Program (SVPTP). The responsibility for investigating these cases will now be handled by the Department of Mental Health, Office of Client Advocacy. A meeting was held with Inpatient Services’ staff, Client Advocacy and the legal office and a process is being developed to handles these cases.

Mr. Magill presented those items listed under the Departmental Overview & Update section of the report.

The decision made by the Commission, following staffs’ recommendation, concerning relocating Hall Institute to the grounds of Bryan Psychiatric Hospital appears to be positive. Mr. Magill has not, as yet, encountered any opposition to this decision. He has spoken to the Chair of House Ways & Means, Governor’s Office, Senate Finance, Sub-Committee Chair of the Health Sub-Committee of House Ways & Means, all the Constitutional officers, and all the Advocates. Very positive comments were received. Mr. Magill took Mr. Eckstrom to Bryan Hospital to show him the site. There are some other reviews which have to occur, such as going to Joint Bond Review committee and the Budget and Control Board, but the agency is moving forward to implement the decision. Mr. Magill said this move will take 2 to 2 ½ years to complete. In the meantime, Hall Institute will continue to operate in its present location on Bull Street. The Department will also deal, at some point, with the sale of the parcel of land that Hall Institute occupies. This may put some additional revenue into the Bull Street sale.
Ms. Bellamy said that staffs of both Hall and Bryan are very positive about the decision. Staff of Hall Institute are somewhat relieved because there have been rumors that Hall would be closed.

Mr. Binkley said it is our understanding that the developer is still working through all the concerns that the City of Columbia staff and Council has brought up regarding the rezoning proposal for the property. The process had appeared to have stalled earlier; however, we understand the negotiations are proceeding. The City gave first reading approval to the rezoning several months ago, and the Department is waiting for a vote on final approval to be scheduled.

Mr. Binkley said that the financial projections in the packets of the Commission is as of May 31, 2012. The Department projects that it will complete the year with a $5 million surplus. Mr. Binkley said that approximately $4 million of this amount is due to a one-time refund of overpaid premiums received following a Worker’s Compensation Audit. The Department learned in the Fall of 2011 that the review indicated significant premium overpayments. Mr. Binkley said that some other state agencies received a one-time payment as well.

Mr. Binkley said that this agency has relied to a significant degree on non-recurring funding to keep services at the current level. This year the amount of non-recurring funds used to operate the agency totaled $40 million, and about half of this amount is due to cost settlements. In order to sustain its current service array, the Department will have to receive additional State appropriations to replace the diminishing non-recurring funds.

Mr. Magill said that in recognition of this, the General Assembly did fund the agency’s operating budget request for FY 13, adding back $7 million in additional recurring operating funds, as well as fully funding the projected cost of the Sexually Violent Predator program in FY 13. DMH will be requesting additional operating revenue in each of the next two budget requests to negate the anticipated drop in non-recurring
Mr. Magill said that he has asked staff from the Department of Health and Human Services (HHS) to attend and brief the Commission on upcoming changes in the cost settlement structure. He introduced Sam Waldrep, Deputy Director of Long Term Care and Behavioral Services. Presenting will be Jeff Saxon, Bureau Chief of Reimbursement Methodology and Policy.

Mr. Saxon said that HHS is in the process of changing the Medicaid reimbursement methodology for DMH. Settlement to actual cost (known as cost settlement) methodology is being discontinued. HHS has developed new reimbursement rates that will be utilized in FY’2013. These rates are based on DMH FY10 actual costs of operation for the nursing homes and psychiatric hospitals trended forward to FY’13, utilizing the federal fiscal year 2010 Medicare Skilled Nursing Facility prospective Payment System Market Basket Rate and the federal fiscal year 2010 Medicare Inpatient Psychiatric Facility Prospective Payment System Market Basket rate, respectively.

Previously, in accordance with federal Medicaid regulations, DMH established its daily patient charge rates for its psychiatric hospitals and nursing homes using a daily nominal rate of less than 60 percent of the actual cost to operate these facilities, which permitted DMH to settle with HHS to actual cost, or cost settlement.

With the Cost Settlement being discontinued and the transition to a Prospective Payment System Market Basket Rate, HHS will pay the Department the lesser of the new reimbursement rate(s) developed by HHS, or the DMH established daily patient charge rate. DMH needs to ensure that its established daily charge rates for inpatient services are at least equal to its costs. If the current daily nominal rates of less than 60 percent of actual cost for its psychiatric hospitals and nursing homes are maintained, its earned Medicaid revenue for inpatient services will be substantially reduced. Based on 2012 revenue, this could be a loss of approximately $6.4 million if the daily patient charge rates are maintained.
Mr. Magill said that there is an Issue Action Paper for review and discussion by the Commission. There are proposed increased rates recommended for consideration. The Commission indicated they would review and discuss this Issue Action Paper during lunch and make a decision.

Mr. Binkley said that among the proposed increases on the previous Issue Action Paper are increases for the veterans’ nursing homes. Even though the staff is recommending that DMH charges at the nursing home be set higher, DMH is a contract provider with the VA. In providing nursing care services to eligible veterans, DMH accepts the reimbursement rate established by the VA, and charges residents only an established daily co-pay. This issue action paper is to increase the co-pay for qualified veterans. It is proposed to increase the co-pay from $28.76 per day to $34.08 per day. Mr. Binkley said there has not been an increase in co-pay for a number of years. This will help offset the Department’s costs of operating these homes.

Mr. Binkley said that the Department has surveyed other states in the Southeast that have veterans’ nursing homes. With the exception of Georgia, which has no co-pay for veterans, South Carolina veteran’s co-pay is at the low end of the range. Some of the other states, Tennessee and Virginia, have co-pays of over $100.00 per day. If approved, the increase in the veterans co-pay will not be effective until October. Advance notice will be sent out to the residents and families. The State Office of Veterans’ Affairs is also aware of this.

**MOTION:** On a motion by Buck Terry, seconded by Joan Moore, the Commission voted to approve increasing the co-pay for qualified Veterans at its nursing homes to $34.08/day. All voted in favor; motion carried.
Mr. Binkley said that the main legislative update is the budget. The Senate and House agreed and passed a budget. The Department did well as it received almost $18 million in additional funds. Among that $18 million was an item that was not requested directly by DMH. $1 million was added to the DMH operating budget for deferred maintenance, initially by the House Ways and Means Committee, and then the full House and Senate.

Mr. Binkley said that the Department had a capital budget request totaling over $50 million for deferred maintenance. None of the $50 million capital request was funded. It appeared that the $1 million for DMH for deferred maintenance was likely added because none of the items in the agency’s capital budget requests were funded. In any event, the Governor vetoed this item. Nevertheless, the Department did extremely well as it received the full amount requested for operating revenue, plus some additional funding for items that were added by the Governor and approved the General Assembly, such as Telepsychiatry. Mr. Magill said the Governor’s office did contact him prior to issuance of the veto.

Mr. Binkley reported on several bills that the Department had been following. He said that malpractice litigation is not a big problem for the agency. However, DMH was interested in a legislation that dealt with “Peer Review Protection.” This is for healthcare organizations, such as DMH, which conduct internal reviews of their adverse events to identify corrective action or improvements. This bill passed. The Department feels that it will benefit by the passage of this bill as it will strengthen the risk management practices of our agency.

Mr. Binkley said that everyone is aware that South Carolina now has seven Congressional Districts and the bill that addresses the appointment of members of the Mental Health Commission was amended to reflect the addition of the new district. There will no longer be an At-Large member of the Commission. Of the seven authorized members, each must come from a different congressional district. Those members currently serving a term, even though affected by the legislation, are allowed
to finish the term before any change will occur.

Mr. Binkley said that the legislation concerning the Adult Protection Coordinating Council has passed, including a change, as reported previously, which provides that all allegations of abuse and neglect of a non-criminal nature in the Department’s Sexually Violent Predator Treatment Program will now be referred by SLED to the Client Advocacy Program at DMH for investigation.

Mr. Binkley explained to the Commission why changes to the Commission’s By-Laws are being recommended. The recommended changes are in three sections of the Bylaws: Sections 8, 9 & 11. Mr. Binkley said that recommended changes to Sections 8 and 9 merely reflect language changes as a result of statutory changes made several years ago. The by-laws were not changed earlier to reflect those changes. In response to a question from Commissioner Moore, Mr. Binkley reported that the Department asked the General Assembly to revise these statutes to make them less prescriptive and give management of the agency more flexibility in how it assigned operational responsibilities.

The recommended changes in Section 11 mirror changes in the Joint Commission Standards. All DMH Joint Commission accredited facilities recognize the Commission as the Governing Body. Under Joint Commission standards, the Governing Body of an accredited facility has to be involved in certain oversight activities, including ensuring that the medical staff bylaws address certain topics. The manner which DMH and the Commission have chosen to meet Joint Commission standards was for the Commission to create and appoint an Inpatient Facilities Governing Body Committee, which engages in oversight of the accredited inpatient facilities and reports back to the Commission. Section 11 prescribes the content of the hospitals’ medical staff by-laws.
MOTION: On a motion by Buck Terry, seconded by Jane Jones, the Commission approved the By-laws changes as recommended. All voted in favor; motion carried.

- Access to Services – Geoff Mason

Mr. Magill said that the Department has been looking at ways to improve its system of care and increase access to services. Mr. Mason said that DMH has been looking at the community mental health system to see what can be done regarding improving access to services. We have reviewed the long range plan and the associated cross walks to that document. He distributed a flow chart that the center directors will be reviewing concerning improved access to services. This chart will be addressed during a work session to see how treatment effectiveness can be enhanced. An action plan will be developed and regular reports will be made to the Commission on the progress made.

- Telepsychiatry – Robert Bank, MD

In the past year, the Department has been working on the issue of how to fund Telepsychiatry, going forward. DMH knew that The Duke Endowment would not continue to fund the project indefinitely. It was always anticipated that DMH would develop and implement a plan for Telepsychiatry to be supported by non-grant sources, including fees from the hospitals which participate in the program. However, in the short-term the Department was seeking continued funding from The Duke Endowment, while also seeking funding from the Legislature, the Department of Health and Human Services, and committing some funds from the DMH budget. One fee plan was developed for those participating hospitals that did a high volume of consultations, and another fee plan for hospitals who did a low amount of consultations. In the Spring of 2012, without assurance of funding from the Legislature or The Duke Endowment, participating hospitals were told there would be fees for continued participation during FY 2013; however, we were unsure of the amount. A letter was sent to the hospitals in early June indicating the amount we thought each would have to pay.

Recently, the Department received more money than anticipated and another letter is
being sent to the hospitals stating that the fees for participation will be reduced. We are hopeful this reduction will keep all currently participating hospitals in the program, and entice those who were not on the system to sign up. For a small hospital doing 150 consults in a year, the fee would be $60.00 per consult.

Ms. Prevost said that “The Lives They Left Behind: Suitcases from a State Hospital” is an exhibit that looks at the moving personal histories of some of the people who were patients at the Willard Psychiatric Hospital in New York. It is being toured in museums across country by The Exhibition Alliance. Earlier this year, Ms. Prevost had developed a committee to bring this exhibit to Columbia. She is happy to report that this is now a reality. Along with this exhibit, we are paralleling another exhibit titled “Bull Street: Life Behind the Wall.” Both exhibits are set to open at the South Carolina State Museum on September 1 and will run through October 14. Ms. Prevost thanked both Tracy LaPointe and Connie Mancari for their work on this committee.

Bill Lindsey said that in connection with the exhibit, he will have a panel presentation at the NAMI Annual Meeting on September 29. Included on the panel will be John Magill, John Morris, Buck Terry, and either Dr. Peter McCandless or Walter Edgar. After the meeting, people can go directly to the Museum to see the exhibit.

The Commission expressed a desire to have its September meeting here at DMH and then go to the Museum and see the exhibit.

Mr. Magill said that the community forums are continuing. The forum at Campbell Nursing Home is set for July 19 and the forum at Berkeley Mental Health is scheduled for July 26.

Mr. Magill will begin meeting with different staff groups in the building, similar to those meetings he had when he first came to the Department in 2006. These will be small meetings, 15 staff in each, and will be held over the next 10-12 months. The purpose of these meetings is to determine what concerns staff has, what is going on in
the division, etc.

NOTICE /AGENDA  A notice and agenda for the meeting were sent out to all individuals and news media who requested information, in accordance with state law.

ADJOURNMENT  At 11:50 a.m., on a motion by Joan Moore, seconded by Buck Terry, the Commission entered into Executive Session to receive legal advice concerning a contractual matter. At 12:50 p.m., the Commission came out of Executive Session, and the following motion was made:

MOTION:  On a motion by Rod Rutledge, seconded by Buck Terry, the Commission approved the recommendation in the Issue Action Paper to increase the daily patient charge rates for the inpatient facilities, operated by DMH to closely approximate the actual costs of operation. All voted in favor; motion carried.

After a motion by Buck Terry, seconded by Joan Moore, the business meeting was adjourned at 12:55 p.m.

ATTENDANCE
Commission Members
Alison Y. Evans, PsyD, Chair  J. Buxton Terry
Joan Moore, Vice Chair  Everard O. Rutledge, PhD
Jane B. Jones

Staff/Guests
John H. Magill  Mark Binkley  Robert Bank
Geoff Mason  Versie Bellamy  Bill Lindsey
Gloria Prevost  Tracy LaPointe  Jeff Ham
Shanna Amersen  Hannah Kelly  Dave Schaefer
Valarie Perkins  Murry Chesson

APPROVALS
Alison Y. Evans, PsyD, Chair  Connie Mancari, Recording Secretary