



*COMMONWEALTH of VIRGINIA*  
*Virginia Board for People with Disabilities*

**SANDRA HERMANN**  
CHAIR

**MONICA SMYTH**  
VICE-CHAIR

**JASON HARVEY**  
SECRETARY

**HEIDI L. LAWYER**  
DIRECTOR

*Ninth Street Office Building*  
*202 North 9th Street, 9th Floor*  
*Richmond, Virginia 23219*

(804) 786-0016  
1-800-846-4464  
TTY or VOICE  
FAX (804) 786-1118  
[www.vaboard.org](http://www.vaboard.org)

October 15, 2004

The Honorable Mark Warner  
Governor  
Capitol Building, 3<sup>rd</sup> Floor  
Richmond, VA 23219

Through:

The Honorable Jane H. Woods  
Secretary of Health and Human Resources  
202 North Ninth Street  
6<sup>th</sup> Floor  
Richmond Virginia 23219

Dear Governor Warner:

The Virginia Board for People with Disabilities is deeply appreciative of your commitment to implementing the Supreme Court decision in *Olmstead v. L.C.* Your appointment of a Director of Community Integration in your office and the issuance of Executive Order 61 reaffirm your pledge to develop and enhance community-based services for people with disabilities in Virginia.

As you know, there are numerous people with disabilities residing in nursing homes, many of whom are not elderly and with the proper supports could reside in the community. In fact you recently appointed a nursing home resident, Felicia Goffigan, a young woman in her 20s, to our Board. Felicia is an excellent example of a young woman who strongly desires to live in the community but until recently has been unaware of her options to do so. Felicia is one of many people with disabilities who if provided with proper information and supports could reside successfully in the community.

**Recommendation:** The Virginia Board for People with Disabilities strongly recommends that appropriate steps be taken to require that all nursing homes licensed in Virginia routinely and regularly provide information to all residents on their choice under Medicaid to choose *Home and Community Based Services* as an alternative to receiving services in a nursing facility. We believe that

providing information on Medicaid Home and Community Based Services should carry the same regulatory weight as providing information about Ombudsman services and that the provision of this information should be as prevalent and visible as the Ombudsman information.

Specifically, the Virginia Board recommends the following actions be taken:

(1) Information to be provided by nursing home staff to residents:

At minimum, this information should include:

- a listing of the titles of Medicaid Waivers available in Virginia;
- a description of the services available in these Waivers as well as a statement about which Waivers have waiting lists and which do not;
- phone numbers that residents or their family members can use to request a screening for these Waivers; and
- a phone number to call to ask questions about these services or about a person's option to choose home and community based services rather than receive services in a facility.

Preferably these contact numbers should be locally specific or an 800 toll free number. Facilities should be mandated to allow residents to call these numbers no charge if the call is long distance. Furthermore, just as with Ombudsman issues, nursing homes should be required to provide a private area in which the resident can make a phone call either to the screening team to apply for a Waiver or to ask a question about Home and Community Based services.

(2) Method and frequency of providing information:

At minimum, nursing homes should be required to provide information as detailed in item (1) above at the following times. This information should be posted clearly and in easy to follow language in obvious locations within the nursing home, as are Ombudsman poster.

- upon initial admission into a nursing home, verbally and in writing;
- at all quarterly assessments, verbally and in writing; and
- at the resident's annual review, verbally and in writing.

The Supreme Court's decision in *Olmstead v. L.C.* states that if a person with a disability is able and wants to live in a community setting, the state should give that person every opportunity to do so. The Board has been made aware from a variety of individuals and organizations that persons residing in nursing homes or being admitted to nursing homes in the Commonwealth of Virginia are currently not being adequately made aware of their choices and that they do not understand how they would pursue home and community based services, if that is their choice. By following the recommended information dissemination process outlined above, residents and their families would be informed about their choice and the existing Medicaid Waivers in Virginia. We believe that support for this recommended mandate must come from the Governor's office in order for it to carry with it the authority that is needed for full compliance. Providing this information to nursing

home residents would assist the Commonwealth with one aspect of Olmstead compliance and would ensure that Virginians with disabilities are able to exercise their right to self-determination. Thank you for your consideration of this important policy recommendation. The Virginia Board looks forward to continuing its work its and collaborating with the Administration to create systems change on behalf of people with developmental and other disabilities residing and receiving services in Virginia.

Sincerely,

Sandra Hermann  
Board Chair

Heidi Lawyer  
Executive Director

Cc: Virginia Board for People with Disabilities