COMMONWEALTH of VIRGINIA

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Ms. Jenny Heilborn
Disability Rights Advocate
disAbility Law Center of Virginia
1512 Willow Lawn Drive, Suite 100
Richmond, Virginia 23230

Re: Emergency Restraint Chair Usage at CCCA

Dear Ms. Heilborn:

Thank you for the opportunity to comment on your draft report regarding the treatment of two individuals and the use of the emergency restraint chair (ERC) at the Commonwealth Center for Children and Adolescents (CCCA). DBHDS welcomes this opportunity to provide relevant contextual information not contained in this draft report and to correct several factual errors.

The Department of Behavioral Health and Developmental Services (DBHDS) shares your commitment to person centered and trauma informed care in a safe environment. This commitment is reflected in both the historical efforts referenced in dLCV's draft report as well as ongoing training provided by DBHDS and CCCA to our workforce. However, the draft report does not contain any reference to these ongoing efforts. Throughout the past year, DBHDS provided seminars available to CCCA staff and as well as other hospital employees, including: Practical Applications for Recovery-based Care in Inpatient Behavioral Health Systems (May 2016); Best Practices to Increase Active Treatment in Behavioral Health Hospitals and Facilities (May 2016); and Violence Prevention in Inpatient Settings: The Link to Trauma-Informed Care (June 2016). Additionally, the principles of trauma informed care are infused in CCCA's orientation and training of new staff, as well as ongoing staff development. Training at CCCA emphasizes trauma-informed practices and the identification of ways to supportively and collaboratively intervene even when individuals are challenging and aggressive and to seclude or restrain only when doing so is necessary for the immediate safety of the individual or others.

Secondly, the authors of the draft report appear unaware of the fact that DBHDS conducts a monthly review of each hospital's health indicators, including CCCA. This monthly review includes such things as critical events, abuse and neglect allegations, complaints, and the use of restrictive interventions such as seclusion and restraint. As a result, this summer DBHDS has been working with CCCA to adapt its business operations, clinical practices, and unit structures to the changing needs of the individuals being served by CCCA. The draft report does not acknowledge that, in collaboration with CCCA Senior Leadership, DBHDS is conducting a weekly review of all incidents of seclusion and restraint at CCCA in an effort to achieve many of the outcomes advocated in the draft report.

Furthermore, the draft report fails to recognize the significant evolution in the clinical and behavioral needs of the children and adolescents served by CCCA since the change in the civil commitment laws on July 1, 2014. When compared with the number of admissions in FY 2013, DBHDS has experienced a 47 percent increase in the overall admissions under age 18. As result, CCCA does not have sufficient bed capacity for this demand. In Fiscal Year 2015, approximately 25% of the individuals with the least acute clinical and behavioral needs, who would otherwise have been admitted to CCCA, have placed in overflow beds in a private hospital. Additionally, approximately one-third of the individuals now admitted to CCCA have developmental disabilities to include autistic spectrum disorders. These factors have contributed to a significant increase and concentration of the levels of acuity and risk at CCCA.

Thirdly, the draft report erroneously conflates statements about the use of the ERC in correctional settings by the various international organizations with applicable standards and regulations for CCCA. The Joint Commission (TJC) is the accrediting body for CCCA and provides deemed status certification of CCCA's compliance with the standards and regulations of the Centers for Medicare and Medicaid Services. TJC's Leading Practices Library contains "policy guidelines" which expressly recommend policy revisions for "the use of the restraint chair in lieu of four point restraints on the child's bed to keep the child's bed a 'safe place'". Additionally, the draft report does not reference the fact that CCCA discontinued the use of the bed restraints when it implemented the use of the ERC in keeping with leading practices referenced by TJC. CCCA's use of the ERC is consistent with the manufacturer's height and weight recommendations. In addition to the manufacturer's requirements, CCCA's medical staff have further limited the use of the ERC. Furthermore, on July 21, 2014 CCCA presented its plan for implementing the ERC and discontinuing the use of bed restraints to the Local Human Rights Committee, thus meeting all of the requirements of the applicable Human Rights Regulations.

Finally, the draft reports account does not reference the additional external reviews of the restraint of RS. In keeping with applicable licensing requirements, CCCA reported RS's injury to Child Protective Services from the Shenandoah Department of Social Services and to the Virginia State Police. Both agencies conducted an independent external investigation without any substantiated findings.

Thank you again for this opportunity to review and comment on the draft report entitled "Emergency Restraint Chair Usage at CCCA".

Sincerely,

Daniel L. Herr
Assistant Commissioner
Behavioral Health Services

cc: Jack Barber, M.D.
Jeffrey Aaron, Ph.D.