

Health Planning Region 1

Complaints Processes

Alleghany Highlands Community Service Board

Section:	1. Management and Administration	Policy:	1.13	Page	1	of	1
Title:	Conflict Free Case Management - ID	Issued:	8/12/15	Revised:			
Reference							
:							

POLICY

It is the policy that Conflict Free Case Management services for individuals with Developmental Disability are to be provided in a manner that ensures person centered planning processes that support the individuals served in identifying their goals, preferences, supports, financial resources and other areas that are important to the individual and that are free from agency bias.

AGENCY PROCEDURES THAT SUPPORT CFCM

1. Case management services are defined by and will follow DBHDS and DMAS regulations for providing case management services, including choice protocols.
2. CSB Case Managers are not related by blood or marriage to the individual receiving services, the individual's paid caregivers, or anyone financially responsible for the individual.
3. Quality Improvement Plan, as required by the Performance Contract, shall utilize information from grievances, complaints and appeals to improve the quality of programs and to inform the CSB in developing and revising policy and operational procedures.
4. The Complaint investigator(s), as designated by the Executive Director, shall be under the auspices of CSB administration.
5. Day to day supervision for case management will be provided by a supervisor who is not also supervising staff of waiver services.
6. Case Managers and Case Management Supervisors will not have oversight of the staff that are delivering waiver services.
7. Funding for case management will not be supplemented by revenue received for waiver services.
8. Case managers will not provide waiver services in their primary or secondary employment.

Section:	3. Health and Safety Management	Policy:	3.07	Page	1	of	8
Title:	Assurance of Human Rights	Issued:	7/1/12	Revised:			
Reference:	<ul style="list-style-type: none">• §37.1-84.1 of the Code of Virginia;• Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers, Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services						

PURPOSE

Alleghany Highlands Community Services (AHCS) is committed to protecting the rights of AHCS individuals served who receive services from directly operated programs and contracted services.

POLICY

It is the policy of Alleghany Highlands Community Services to recognize, respect, support, endorse and enforce the rights of its individuals served as promulgated in Regulations 12 VAC 35-115-10 through 12 VAC 35-115-250, authorized by the Code of Virginia § 37.1-84.1. Rights of patients and residents.

PROCEDURES

I. Assurance of Rights

a. Alleghany Highlands Community Services and all AHCS employees will work cooperatively with AHCS, individuals served and their family members, the employees of Office of Human Rights, the Local Human Rights Committee (LHRC) and the State Human Rights Committee (SHRC) to effectively protect rights and, when applicable, assist with resolution of Human Rights complaints.

- 1) All new AHCS employees will receive training on the consumer human rights. Documentation of training on the DBHDS Regulations will be maintained in Relias.
- 2) Annually thereafter, AHCS employees will receive training on human rights policies and procedures. Documentation of training on the DBHDS Regulations will be maintained in Relias
- 3) AHCS Executive Director, or designee is responsible for recognizing and regularly monitoring policies and procedures that assure the protection of consumer rights in the following areas:

- Dignity
- Services
- Participation in decision making & consent
- Confidentiality
- Access to and amendment of service records
- Restrictions on freedoms of everyday life
- Use of Seclusion, restraint, and time out
- Work
- Research
- Complaint & fair hearing
- Complaint resolution process

- Substitute decision making
 - Variances
 - Reporting
- b. AHCS will take the following actions to ensure that individuals served know what their rights are:
1. Display, in areas most likely to be noticed by individuals, a document listing the rights of individuals under DBHDS regulations and how individuals can contact the human rights advocate.
 2. Upon admission to AHCS services, individuals served shall be given a copy of the Human Rights handout, including the name, address and telephone number of the Regional Advocate. Upon request, a copy of the Regulation shall be made available. If English is not the primary language, copies of Human Rights notice in other languages are available through the DBHDS web site. Print copies as needed from the web site.
 3. AHCS individuals served and their authorized representative, as applicable, are notified of rights and how to file a complaint. The consumer rights notification is in writing at the time services begin and annually thereafter.
 - a) At the time of admission, the Human Rights handout and complaint process shall be explained verbally to the consumer in terms appropriate to the consumer's level of functioning.
 - b) If a consumer doesn't understand English, is hearing impaired, or possesses a disability limiting the consumer's capacity to understand the notice, notification of rights shall be presented in the manner, format and languages most frequently understood by the consumer receiving services.
 4. AHCS individuals served and their authorized representative, if applicable, will sign in the EHR acknowledging receipt of a copy of their rights.
 - If the consumer or authorized representative cannot or will not sign in the EHR, AHCS employees will document that fact in the consumer's record.
 5. Upon request, a complete copy of the Regulations will be made available to anyone that asks.
- c. Every individual receiving services has a right to seek resolution of his complaint and make a human rights complaint. Any individual receiving services, or anyone acting on his behalf, who believes an employee or agent of AHCS has violated any of his rights under these regulations may make a complaint and get help in making the complaint. (See Policy 3.09 Human Rights Complaint Process).
- d. Other rights and remedies may be available. Individuals served will not be prevented from pursuing any other legal right or remedy to which he may be entitled under federal or state law.
2. Explanation of Individual Rights and Agency Duties
- a. Dignity:
1. All AHCS individuals served have the right to exercise their legal, civil, and human rights, including constitutional and statutory rights, and the rights contained in the Regulations add s to all regulations. Each consumer has a right to person-centered services. All AHCS individuals served have a right to be protected, respected and supported in exercising their rights.

2. AHCS employees will not partially or totally take away or limit individual rights solely because the individual has a mental illness, Developmental Disability, or substance use problem and is receiving services for these conditions or has any physical or sensory conditions that may pose a barrier to communication or mobility.
 3. AHCS employees will:
 - a) Call individuals served by the preferred or legal name*
 - b) Protect individuals served from harm including abuse, neglect and exploitation
 - c) Help individuals served learn about, apply for, and fully use any public service or benefit to which they are entitled
 - d) Provide opportunities to communicate in private with lawyers, judges, legislators, clergy, licensed health care practitioners, authorized representative, advocate, the Inspector General and employees of the protection and advocacy agencies.
 - e) Provide general information about program services and policies in a manner easily understood by the consumer.
 - f) Assure individuals have the opportunity to designate an individual of choice to receive notice of general condition, location, and transfer to another facility.
 4. In residential settings, AHCS employees will:
 - a) Assure each individual has sufficient and suitable clothing for the individual's exclusive use.
 - b) Provide nutritionally adequate, varied and appetizing diet prepared and served under sanitary conditions and served at appropriate times and temperatures.
 - c) Provide a safe, sanitary and humane physical environment that gives each consumer at minimum:
 - Reasonable privacy and private storage space;
 - An adequate number and design of private, operating toilets, sinks, showers, and tubs that are designed to accommodate individual's needs;
 - Direct outside air provided by a window that opens or by an air conditioner;
 - Windows or skylights in all major areas used by individuals;
 - Clean air, free of bad odors;
 - Room temperatures that are comfortable year round compatible with health requirements.
 - d) Allow resident(s) to practice religion and participate in religious services subject to their availability, provided that such services are not dangerous to self or others and do not infringe on the freedom of others.*
 - e) Provide paper, pencil and stamps free of charge for at least one letter every day upon request.
 - f) Provide help in writing or reading mail as needed.
 - g) Provide residents the opportunity to communicate privately with any person by mail or telephone* and get help in doing so.
 - h) Allow residents to have or refuse visitors*
- * Exceptions may apply if a determination is made that doing so will result in demonstrable harm or have sufficient impact on the program or the consumer's treatment, progress and recovery. For an explanation of exceptions, see section 12 VAC 35-115-50 Dignity
- b. Services
- 1) Definitions:

- a) Services: The care, treatment, training, habilitation, interventions, or other supports, including medical care, delivered by a provider licensed, operated or funded by the department.
 - b) Habilitation: The provision of individualized services conforming to current acceptable professional practice that enhances the strengths of, teaches functional skills to, or reduces or eliminates challenging behaviors of an individual. These services occur in an environment that suits the individual's needs, responds to his preferences, and promotes social interaction and adaptive behaviors.
 - c) Individualized services plan or ISP: A comprehensive and regularly updated written plan that describes the individual's needs, the measurable goals and objectives to address those needs, and strategies to reach the individual's goals. An ISP is person-centered, empowers the individual, and is designed to meet the needs and preferences of the individual. The ISP is developed through a partnership between the individual and the provider and includes an individual's treatment plan, habilitation plan, person-centered plan, or plan of care.
 - d) Discharge plan: The written plan that establishes the criteria for an individual's discharge from a service and coordinates planning for aftercare services.
 - e) Treatment: The individually planned, sound, and therapeutic interventions that are intended to improve or maintain functioning of an individual receiving services delivered by providers licensed, funded, or operated by the department. In order to be considered sound and therapeutic, the treatment must conform to current acceptable professional practice.
- 2) All AHCS individuals served shall receive services according to law and sound therapeutic practices.
 - 3) Each program conducts screenings and assessments prior to or upon admission and during the provision of services; prepare, implement, and revise the consumer's ISP based on the needs and the expressed preferences of the consumer, and prepare and implement the individual's discharge plan. The ISP and discharge plan will be written in clear and understandable language to the individual. All entries in the individual's medical record will be authentic, accurate, complete, timely, and pertinent.
 - 4) AHCS will ensure that all services are integrated. AHCS will take all reasonable steps to involve family members in services and discharge planning with the individual's or the authorized representative's, as applicable, authorization.
- c. **Participation in Decision-Making and Consent**
- 1) AHCS employees will respect and encourage individuals served to participate meaningfully in all aspects of services. AHCS employees will ask individual preferences that affect him/her and to the extent possible honor these preferences. This includes service plans; discharge plans, and changes to the service plan and all other aspects of the services received.
 - 2) See Policy 3.08 Appointment of Authorized Representative for additional information.
- d. **Confidentiality**

- 1.) AHCS individuals served are entitled to have all information that AHCS maintains or knows about him/her to remain confidential. Each AHCS consumer has a right to give his authorization before AHCS program shares information about him/her or his or her care unless another law, federal regulation, or the Regulation specifically requires or permits the provider to disclose certain specific information.
- 2) See Policy 8.01 Release of Information and Confidentiality for additional information.

e. Access to and Correction to Service Records

- 1) Each individual has a right to see, read, and get a copy of his own medical record.
- 2) Each individual has the right to challenge, ask for correction of, or receive explanation of anything in his record. Whether or not corrections are made as a result, each consumer has a right to let anyone who sees his record know that he tried to correct the record or explain his position and what happened as a result.
- 3) An individual's authorized representative has the same rights as the individual we serve has.

f. Restrictions on Freedoms of Everyday Life

- 1) AHCS will encourage each individual's participation in normal activities and conditions of everyday living and support each consumer's freedoms.
- 2) AHCS will not limit or restrict any individual's freedom more than is needed to achieve a therapeutic benefit, maintain a safe and orderly environment, or intervene in an emergency.
- 3) AHCS will not impose any restriction on an individual unless the restriction is justified and carried out according to policy. If it is determined that the proposed restriction is necessary for effective treatment of the individual or to protect him/her or others from personal harm, injury or death, a service plan will be developed to address goals and objectives and criteria for removal of the restriction.
 - a) AHCS employees will make sure a qualified AHCS employees regularly reviews every restriction and the restriction is discontinued when the individual has met the criteria for removal.
 - b) AHCS employees will assess and document all possible alternatives to the proposed restriction.
 - c) AHCS employees will take into account the individual's medical and mental condition, behavior, preferences, nursing and medication needs and the ability to function independently.
 - d) AHCS employees will document in the individual service record, the specific reason for the restriction; and explain so the individual can understand, the reason for the restriction, the criteria for removal, and the individual's right to a fair review of whether the restriction is permissible.
- 4) AHCS will not place any restriction on the physical or personal freedom of any individual solely because criminal or delinquency charges are pending against that individual, except in the situation where the individual is transferred directly from jail or detention for the purpose of receiving an evaluation or treatment
- 5) Program Rules: AHCS programs may develop and enforce written rules of conduct, but only if rules do not conflict with the Regulations or any individual service plan, and if the rules of conduct are needed to maintain a safe and orderly environment.
 - a) AHCS will apply these rules in the same way to each individual.

- b) AHCS prohibits individuals served from disciplining other individuals served, except as part of an organized self-government. If programs are self-governing programs there will be written policies that have been approved in advance by the Local Human Rights Committee (LHRC).
- c) AHCS employees will solicit suggestions from individuals served who are expected to obey the rules.
- d) AHCS will give the rules to AHCS individuals served and review with them, or if appropriate, their authorized representative. Rules will be presented in a format appropriate for the individual's level of functioning.
- e) AHCS program rules of conduct will include possible consequences for violating rules.
- f) Upon request, program rules will be submitted to the LHRC or the regional Human Rights Advocate.

g. Use of Seclusion Restraint and Time Out

- 1) All AHCS individuals served are entitled to be completely free from unnecessary use of seclusion, restraint and time out.
- 2) See Policy 7.01 Behavior Interventions and Supports for detailed information.

h. Work

- 1) All AHCS individuals served have a right to engage in work or work-related activities consistent with their service needs while receiving services.
- 2) Personal maintenance and personal housekeeping by individuals receiving services in residential settings are not subject to this provision.

i. Research

- 1) Each individual has a right to choose to participate or not participate in human research.
- 2) AHCS will secure prior, written, informed consent of the individual or authorized representative before any individual begins to participate in human research.
- 3) AHCS will comply with all other applicable state and federal laws and regulations regarding human research, including the provisions under Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia and the regulations promulgated under that statute.
- 4) AHCS will inform the LHRC before an individual receiving services may participate in any human research project, and provide periodic updates on the status of the individual's participation to the committee.

j. Complaint and Fair Hearing

- 1) Each individual has a right to:
 - a) Complain that AHCS has violated any of the rights assured under these regulations.
 - b) Have a timely and fair review of any complaint according to the procedures outlined in this Human Rights Plan.
 - c) Have someone file a complaint on his behalf.
 - d) Use these and other complaint procedures.
 - e) Complain under any other applicable law.

- 2) If an individual makes a complaint, AHCS will make every attempt to resolve the complaint to the individual's satisfaction at the earliest possible step.
- 3) AHCS will not take, threaten to take, permit, or condone any action to retaliate against anyone filing a complaint, or prevent anyone from filing a complaint or helping an individual to file a complaint.
- 4) AHCS will assist the complainant in understanding the full complaint process, the options for resolution including the formal and informal process, and the elements of confidentiality involved.

k. Substitute Decision-Making

See Policy 3.08 Capacity to Give Consent, Appointment of Authorized Representative for procedures.

l. Variances

AHCS shall request and seek approval of Variances to the Regulation only when AHCS has tried to implement the relevant requirement without a variance and can provide objective documented information that continued operation without a variance is not feasible or will prevent the delivery of effective and appropriate services and supports to individuals.

m. Reporting

- 1) AHCS has policies and procedures that address collecting and reporting requirements in regard to individual abuse, deaths and serious injury, seclusion, restraints, and human rights activities and reportable conditions to the Dept. of Health Professions.
- 2) See Policy 3.04 Incident Reporting for procedures.
- 3) See Policy 3.09 Human Rights Complaint Process for procedures.

PURPOSE

To assist AHCS individuals served with resolution of human rights complaints and improve service delivery.

POLICY

It is the policy of Alleghany Highlands Community Services to recognize, respect, support, endorse and enforce the rights of its individuals served as promulgated in Regulation.

DEFINITIONS

1. Complaint: An allegation of a violation of the Human Rights regulations (Regulations) or a provider's policies and procedures related to these regulations.
2. Complaint Categories/Sub-Categories:

<u>12VAC35-115-40.</u> <u>Assurance</u> <ul style="list-style-type: none"> • Legal Rights • Poster • Notice/signature • Assistance w/ filing 	<ul style="list-style-type: none"> ○ Mail ○ Visitation ○ Telephone <u>12VAC35-115-60.</u> <u>Services</u> <ul style="list-style-type: none"> • Discrimination 	<u>12VAC35-115-145.</u> <u>Capacity Evaluation</u> <ul style="list-style-type: none"> • Periodic Reviews <u>12VAV35-115-146. AR</u> <ul style="list-style-type: none"> • Properly designated • Honoring preference 	<ul style="list-style-type: none"> • Media access • Recreation/outdoors • Clothing/possessions • Access to fair review • Program Rules
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<ul style="list-style-type: none"> • Access to external • Advocacy/legal <p><u>12VAC35-115-50. Dignity</u></p> <ul style="list-style-type: none"> • Employees Actions or Attitude • Health & Safety • Name • Assistance w/ Public Benefits • Private Communication • Written information about services • Residential <ul style="list-style-type: none"> ○ Meals ○ Environment ○ Health & Safety ○ Religion 	<ul style="list-style-type: none"> • Service – law & sound • practice • Qualified service providers • Services/Treatment Plan • Medication • Documentation <p><u>12VAC35-115-70. Participation</u></p> <ul style="list-style-type: none"> • Consent • Informed Consent • ECT • Designation of AR • Support/representation • Emergency Treatment • Termination/Discharge 	<ul style="list-style-type: none"> • Removal <p><u>12VAC35-115-80 & 90. Confidentiality/Access</u></p> <ul style="list-style-type: none"> • Confidentiality/Privacy • Disclosure w/o Authorization • Access to record • Copies • Amendment or correction <p><u>12VAC35-115-100. Restrictions</u></p> <ul style="list-style-type: none"> • Least Restrictive Conditions/ • Alternatives • Personal spending • Association/Visitation 	<p><u>12VAC35-115-110. Use of Time Out, Restraint, or Seclusion</u></p> <ul style="list-style-type: none"> • Preferred intervention • Application Behavioral Treatment <p><u>12VAC35-115-120. Work</u></p> <ul style="list-style-type: none"> • Performing labor/job for Provider <p><u>12VAC35-115-130. Research</u></p> <ul style="list-style-type: none"> • Review • Informed Consent <p><u>12VAC35-115-140. Complaint & Fair Review</u></p> <ul style="list-style-type: none"> • Responding to Complaint • Adhering to Procedure
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3. Informal Resolution Process: When a client or authorized representative chooses informal resolution process and the director or designee attempts to resolve the complaint immediately. (See 12VAC 35-115-170)

4. Formal Resolution Process: Refers to two (2) situations: (See 12VAC 35-115-170)

The informal resolution process was not successful in resolving the AHCS client's or authorized representative complaint within five (5) working days, Or the AHCS client or authorized representatives chooses to proceed with the formal resolution process.

POLICY

1. PRELIMINARY HUMAN RIGHTS COMPLAINT RESOLUTION PROCESS:

- a. AHCS individuals served have the right to:
 - 1) Make a complaint that an AHCS employees or program has violated any of their rights in the Regulations.
 - 2) Have someone else file a complaint on his or her behalf
- b. Any AHCS employee who suspect that an individual's rights may have been violated or receives a report or complaint of a human rights violation must:
 - 1) Make an immediate verbal notification to the Executive Director or designee
- c. If the report is made only to the:

- 1) Executive Director: the Executive Director or designee shall immediately notify the regional Human Rights Advocate. If the report is made on a weekend or holiday, then the Executive Director or designee shall notify the regional Human Rights Advocate on the next business day.
- 2) Regional Human Rights Advocate, the Human Rights Advocate shall immediately notify the Executive Director. If the report is made on a weekend or holiday, then the regional Human Rights Advocate shall notify the Executive Director on the next business day.
- d. In no situation shall the filing of a complaint result in any retaliatory action by the AHCS agency or AHCS employees against the AHCS individual or the individual helping to file the complaint.
- e. The Executive Director or designee shall review the alleged complaint within twenty-four (24) hours to determine probability or possibility that a particular incident is a violation of human rights.
- f. The Executive Director or designee will thoroughly explain the complaint process and ask the AHCS client or his/her authorized representative if they want to pursue the informal or formal complaint process.
 - If choice is informal, use Informal Human Rights Complaint Resolution Procedure.
 - If choice is formal, proceed with Formal Human Rights Complaint Resolution Procedure or,
 - If the individual does not make a choice, the complaint shall be managed through the informal process.

2. INFORMAL HUMAN RIGHTS COMPLAINT RESOLUTION PROCEDURE:

- a. General: The following procedure applies if:
 - 1) The individual or authorized representative chooses to pursue the informal complaint resolution process.
 - 2) If the individual does not make a choice between informal or formal process the complaint shall be managed through the informal process.
- b. Step 1: The Executive Director or designee shall attempt to resolve the complaint immediately by informally meeting with the individual, any chosen representative, and with other persons who are deemed appropriate.
 - 1) Further investigation may be conducted as necessary.
 - 2) AHCS employee's response to the informal complaint and attempts at resolution should not exceed five (5) working days.
 - 3) If the complaint is resolved to the individual's or his authorized representative's satisfaction, no further action is required.
- c. Step 2: If the complaint is not resolved within five working days, the Executive director or designee shall refer it for resolution under the formal process.
 - 1) The individual may extend the informal process five-day time frame for good cause. All such extensions shall be reported to the Human Rights Advocate by the Executive Director or designee.

3. FORMAL HUMAN RIGHTS COMPLAINT RESOLUTION PROCEDURE:

- a. General: The following procedure applies if:

- 1) The informal complaint resolution process did not resolve the complaint to the AHCS individual's served or his authorized representative, satisfaction within five (5) working days or,
 - 2) The individual or authorized representative chooses to pursue the formal complaint resolution process.
 - 3) If at any time during the formal complaint process the Regional Human Rights Advocate concludes after an initial investigation that there is substantial risk that serious and irreparable harm will result if the complaint is not resolved immediately, the Human Rights Advocate would proceed to notify the Executive Director, and the LHRC. (See 12 VAC 35-115-180)
- b. Step 1: The Executive Director or designee shall try to resolve the complaint by meeting with the AHCS individual, any representative the individual chooses, and others as appropriate, within 24 hours of receipt of the complaint or the next business day if that day is a weekend or holiday.
- 1) The Executive Director or designee will conduct an investigation of the complaint if necessary.
- c. Step 2: The Executive Director or designee shall give the AHCS client and/or the individual's chosen representative a written preliminary decision and where appropriate, an action plan within ten (10) working days of receiving the complaint.
- 1) Along with the action plan, the Executive Director shall provide written notice to the individual about:
 - a) The time frame for the individual's response,
 - b) Information on how to contact the Human Rights Advocate for assistance with the process, and
 - c) A statement the complaint will be closed if the individual does not respond.
 - 2) If the AHCS individual or authorized representative is satisfied, the Executive Director's written decision and action plan will be filed with the original human rights complaint. No further action is required. The complaint will be closed.
 - 3) If the AHCS individual, or authorized representative is not satisfied at this step, he or she can respond to the Executive Director in writing within five (5) working days after receiving the Executive Director's or the designee's written preliminary decision and action plan. If the individual or authorized representative does not respond within five (5) working days, the complaint will be closed.
- d. Step 3: If the individual disagrees with the preliminary decision or action plan and reports his disagreement to the Executive Director in writing within five working days after receiving the decision or action plan, the director shall:
- 1) Investigate further as appropriate and shall make a final decision regarding the complaint.
 - 2) Forward a written copy of his final decision and action plan to the individual, his chosen representative, and the human rights advocate within five working days after the director receives the individual's written response.
 - 3) Provide written notice, along with the action plan, about:
 - a) The time frame for the individual's response pursuant to next step,
 - b) Information about how to contact the Human Rights Advocate for assistance with the process, and

- c) A statement that if the individual does not respond that the complaint will be closed.
- e. Step 4: If the AHCS individual or authorized representative:
 - 1) Disagrees with the Executive Director's final decision or action plan - he may file a petition for a hearing by the LHRC. (See VAC 35-115-180).
 - 2) Accepts the relief offered by the director - the matter is not subject to further review.

Harrisonburg-Rockingham Community Services Board

Handling Human Rights Complaints: Any complaint, dispute, or suspicion of a human rights violation is serious and must be given due attention by all concerned.

Staff will provide necessary information in a helpful manner to the client when assistance is requested in filing a complaint. A human rights complaint that cannot be resolved between those most directly involved may be made to either the Executive Director via the Compliance Supervisor and/or the Regional Human Rights Advocate. If the complaint is made to the agency, the Compliance Supervisor will notify the Human Rights Advocate. The complaint may be pursued through either an informal or formal resolution process. Procedures outlined in 12 VAC 35-115-170 of the Human Rights Regulations will be strictly followed in addressing all human rights issues. A Local Human Rights Committee, consisting of community volunteers, hears complaints that have not been able to be resolved, and proactively reviews CSB program practices. When staff have questions about the human rights regulations or a situation within the agency that may have human rights implications, the Compliance Supervisor should be consulted and then, if applicable, a decision will be made as to whether the involvement of the Regional Human Rights Advocate is warranted.

Horizon Behavioral Health Community Services Board

Employee Client Rights Agreement

Client Rights Agreement

Each client at Horizon Behavioral Health has certain rights which are set out in the Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services and Horizon's Human Rights Policy.

It is the responsibility of every employee, volunteer, contractor, vendor, and student to respect client rights and privacy, report any concerns to their supervisor, and to participate and cooperate in an investigation concerning complaints. If you have questions concerning human rights or privacy you can contact Kelly Baldwin, Client Privacy and Rights Officer at 434-455-3422.

As an employee of Horizon I agree to uphold the following client rights:

- To be treated with dignity and respect in the least restrictive setting;
- To be included in making any decisions about your treatment and services;
- Give or not give consent for treatment;
- Give or not give consent before any information is shared about you, unless another law, federal regulation, or Human Rights Regulation requires or allows;
- Have help in learning about, applying for, and using public service benefits;
- Be protected from harm including abuse and neglect;

- Have all your legal rights, unless the court restricts these rights;
- Have all information that Horizon maintains or knows about you remain confidential;
- Ask questions and get help with your rights;
- Receive a copy of the agency Human Rights Policy; and
- Make a complaint and to have it resolved in a timely manner
- Clients of residential services have the following additional rights:
- Have suitable clothing;
- Receive services in a safe and clean environment;
- Have a nutritious and varied diet;
- Speak privately by phone or write letters to anyone, unless your treatment plan or program rules limit this;
- Have or refuse visitors;
- Meet or consult in private with your lawyer, clergy, authorized representative, and health care provider; and
- Practice religion and participate in religious services as long as it does not pose a danger to you or others and does not infringe on the rights of other clients.

Employee Acknowledgement:

My signature indicates that I have read this statement of client rights prior to providing services as an employee of Horizon Behavioral Health.

(SEE ALL ATTACHMENTS LABELED "HORIZON" BELOW)



Annual Service Orientation Checklist and Guide – Required Annually

Retain pages 1 and 2 and provide client with pages 3-12

By signing below I verify that the following required notifications have been given to me and reviewed to my satisfaction.

- **Non-Discrimination Notification:** No person shall, on the basis of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity operated by Horizon Behavioral Health.
- **Advance Medical Directives:** (18 years or older) I have a Living Will and/or Medical Power of Attorney (*Also known as Durable Medical Power of Attorney or Health Care Proxy*) and I choose to provide a copy of my written Advance Medical Directive to Horizon to include in my service record. ☐ Yes ☐ N/A (See page 8)
- **Residents of Assisted Living Facilities (ALFs) must be informed of:**
 - *The use and purpose of the call bell system at a residential program.*
 - *Notification of meal times.*
- **Program Orientation:**
 - 1) Available After-Hour Service and Emergency Phone Number
 - 2) Hours and Days of Operation
 - 3) Choice of Providers
 - 4) Building Layout Fire and Safety
 - 5) Emergency Preparedness
- **Forward financial information to Client Accounts Department (Courtland Center)**
- **Additional Required Notifications Attached:**
 - Voter Registration Agency Certification (Applicant must sign this form)
 - Offer to the Voter Registration form annually and complete for address change-
 - Horizon Behavioral Health's Mission and Values
 - Guidelines for Participation in Services, *Conduct, Responsibilities*
And Tobacco-Free Environment Notice
 - Clinical Services Contact Information and Hours of Operations
 - Notice of Consumer Rights
 - Regional Human Rights Advocate & Consumer Grievance Procedure
 - Advanced Medical Directive
 - Code of Ethics
 - Privacy Notice
 - Disposition of Medical Records Upon Discharge
 - Notification of Medicaid Right to Appeal Change of Services (*Initial*)
 - Notification of Deemed Consent
 - Notification for *Magellan* Members

List Programs/Services: _____

Horizon staff member _____ at phone number _____ will be available to me as a contact person while services are being established.

The attached pages & information must be provided to client prior to having them sign this page.

Signature of Individual Served: X _____ Date: _____

Authorized Representative: X _____ Date: _____



Annual Service Orientation

Checklist and Guide – Required Annually

Retain pages 1 and 2 and provide client with pages 3-12

Individual Served Name: _____

Horizon ID#: _____

See additional signature required on page 2

Commonwealth of Virginia Voter Registration Agency Certification

☐ N/A – Minor

If you are not registered to vote where you live now, would you like to apply to register to vote here today?
(Please check only one)

- ☐ I am already registered to vote at my current address, or I am not eligible to register to vote and do not need an application to register to vote.
- ☐ Yes, I would like to apply to register to vote. (please fill out the voter registration application form)
- ☐ No, I do not want to register to vote.

If you do not check any box, you will be considered to have decided **not** to register to vote at this time. Applying to register to vote or declining to register to vote will not affect the assistance or services that you will be provided by this agency.

If you decline to register to vote, this fact will remain confidential. If you do register to vote, the office where your application was submitted will be kept confidential, and it will be used only for voter registration purposes.

If you would like help filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private if you desire. **If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with:**

Secretary of the Virginia State Board of Elections
Washington Building 1100 Bank Street Richmond, VA 23219-3497
(804) 864-8901

_____	<input checked="" type="checkbox"/>	_____
Applicant Name (print)	Signature	Date

For agency use only

Voter Registration form completed: ☐ Yes ☐ No

Voter Registration form given to applicant for later mailing (at applicant's request): ☐

_____	_____
Horizon Staff Signature	Date

SBE 032-03-945 07/09

Horizon Mission Statement

To support and promote the health, independence, and self-worth of individuals and families in Central Virginia by providing a continuum of community-based prevention, early intervention, treatment and after-care services for persons affected by substance abuse, mental retardation, mental illness, and co-occurring disorders.

Our Values

We Believe In:

- Each individual and family's worth, dignity, and right to be treated with respect.
- The right of each individual and family to participate fully in decisions affecting his / her life.
- Each individual and family's right to be safe from harm.

We also believe in:

- Providing timely services in the least restrictive setting which are accessible, affordable, efficient, and adaptable to the individual and family's needs.
- Developing a well-trained and culturally diverse staff.
- Evaluating our services regularly as they relate to consumer and community needs.
- Working cooperatively with other agencies and organizations to provide our community with fully integrated services.

Guidelines for Participation in Services, Conduct, & Responsibilities - As a recipient of services or a parent / legal guardian of recipient of services at Horizon, you are expected to:

- Attend appointments as scheduled.
- Pay for all services as agreed to and documented on the Horizon Payment Agreement Form.
- Call as soon as possible if you are unable to attend a scheduled appointment or group for any reason. A fee may be charged for missed appointments.
- Work with your Primary Service Coordinator on your Individual Service Plan and subsequent reviews. Be active in attempting to attain the goals and objectives as defined in your Individual Service Plan.
- Be considerate and respectful. Verbal abuse, physical threats, violent gestures, sexual abuse or harassment toward peers, staff, or property will not be tolerated.
- Honor the confidentiality and privacy of other consumers and staff.
- Adhere to the agency's policy that prohibits the use and possession of tobacco, alcohol, illegal drugs and weapons of any kind in all agency vehicles and agency facilities.
- Promptly notify appropriate agency personnel if you have problems or concerns regarding services.
- **Minors:** A parent/ legal guardian must remain on site (as appropriate) while outpatient services are being provided.
- Follow through with treatment recommendations such as prescribed medications or outside activities and promptly report problems with medications if medications are stopped for any reason.
- Failure to fulfill the established *Responsibilities of Participation in Services and Conduct* may result in involuntary discharge from services. Questions, concerns or appeals about involuntary discharge may be presented to Continuous Quality Improvement Coordinator or Regional Human Rights Advocate. (See last page for contact information).
- **Tobacco-Free Environment Notice: EFFECTIVE July 1, 2014**, all Horizon facilities and grounds are tobacco-free and Tobacco-Free. This restriction applies to tobacco or any other substance intended for smoking in any form including pipe and smokeless tobacco and electronic cigarettes. Horizon appreciates your assistance and cooperation. You may ask a Horizon employee about the availability of smoking cessation programs.
- **Good Neighbor Policy:** Horizon also restricts smoking outside of nearby buildings including sidewalks and areas across the street or near neighboring buildings.

Clinical Services - Sandy Bryant RNCS, LPC, LMFT, Chief Clinical Officer

For after hour EMERGENCIES CALL

Adults 18 years of age and up: **434-845-9404**

Individuals under age 18: **434-522-8191**

HORIZON ADMISSIONS AND INTAKE 434-477-5000

Please call 434-477-5000 for information about our services and to make an appointment.

Our Walk-In Clinics are open from

8:30 a.m. until 11:45 a.m. Monday through Friday at the following two locations:

Horizon Wellness Center @ Courtland – 620 Court Street, Lynchburg, VA – Ages 18 and Up

Horizon Wellness Center @ Langhorne – 2215 Langhorne Rd., Lynchburg, VA – Age Under 18

Evening appointments must be scheduled in advance

If you would like to take advantage of our walk in clinic, please make sure you bring a picture ID, insurance card, social security card and a proof of income (a recent pay stub or W2 will work). The initial "intake" process could take up to two and a half hours. Please prepare properly.

Horizon Therapeutic Day Treatment- 3410 Old Forest Road Lynchburg, VA (434) 455-1000

Horizon Haley Center - 456 Rivermont Avenue Lynchburg, VA (434) 847-8030

Horizon Hudson House - 2420 Woodrow Street Lynchburg, VA (434) 847-8031

HORIZON WELLNESS CENTERS

AMHERST	114 Lexington Turnpike, Ste 200 Amherst, VA	(434) 946-2316
APPOMATTOX	226 Clover Lane Appomattox, VA	(434) 352-8239
BEDFORD	1409 Ole Dominion Blvd. Bedford, VA	
	Adults 18 and Up	(540) 586-5429
	Individuals Under Age 18	(540) 586-7970
RUSTBURG	37 Village Highway Rustburg, VA	
	Adults 18 and Up	(434) 332-5149
	Individuals Under Age 18	(434) 332-5111
LYNCHBURG	620 Court Street Lynchburg, VA (Adults 18 and Up)	(434) 847-8035
	2215 Langhorne Road Lynchburg, VA (Individuals Under Age 18)	(434) 948-4831
	2235 Landover Place Lynchburg, VA (Adults 18 and Up)	(434) 847-8000

HORIZON HOMES

Forest	109 Elkridge Drive Forest, VA	(434) 213-2471
Amherst	108 Whipporwill Circle Madison Heights, VA	(434) 929-4702
Altavista	101 Avoca Lane Altavista, VA	(434) 369-7187
Appomattox	624 Jones Street Appomattox, VA	(434) 352-8625
Bedford	1615 Longwood Avenue Bedford, VA	(540) 586-5027
Bethany Home	3009 Roundelay Drive Lynchburg, VA	(434) 239-1032
Timothy Home	3009 Roundelay Drive Lynchburg, VA	(434) 239-0722
Bowyer Home	529 Riverview Road Madison Heights, VA	(434) 847-3280
Warren Home	529 Riverview Road Madison Heights, VA	(434) 847-2760
Powell Home	722 Old Graves Mill Road Lynchburg, VA	(434) 832-1394
Pearson Home	722 Old Graves Mill Road Lynchburg, VA	(434) 832-7084
Forest Hills	3018 Forest Hills Circle Lynchburg, VA	(434) 386-4449

Notice of Consumer Rights

Horizon strives to provide consumers with the best possible services. As a consumer of Horizon, you have rights that are protected and authorized by the *Code of Virginia § 37.1-10(6) and § 37.1-84.1*, except in special situations when a court has decided you are not able to make decisions for yourself. Staff should explain your rights to you when you enter into services at Horizon and then once a year.

You Have The Right To:

- Be treated with dignity and respect in the least restrictive setting;
- Be included in making any decisions about your treatment and services;
- Give or not give consent for treatment;
- Give or not give consent before any information is shared about you, unless another law, federal regulation, or Human Rights Regulation requires or allows;
- Have help in learning about, applying for, and using public service benefits;
- Be protected from harm including abuse and neglect;
- Have all your legal rights, unless the court restricts these rights;
- Have all information that Horizon maintains or knows about you remain confidential;
- Ask questions and get help with your rights;
- Receive a copy of the agency Human Rights Policy; and
- Make a complaint and to have it resolved in a timely manner.

If you are a consumer of a residential service:

- Have suitable clothing;
- Receive services in a safe and clean environment;
- Have a nutritious and varied diet;
- Speak privately by phone or write letters to anyone, unless your treatment plan or program rules limit this;
- Have or refuse visitors;
- Meet or consult in private with your lawyer, clergy, authorized representative, and health care provider; and
- Practice religion and participate in religious services as long as it does not pose a danger to you or others and does not infringe on the rights of other consumers.

If you have a question, concern, believe you have been treated unfairly, or your rights have not been respected, you may choose to do any of the following:

- Contact the Human Rights and Privacy Officer at 434-455-3422. The Human Rights and Privacy Officer will work with you to resolve the situation.
- Call or write **Tammy Long, Human Rights Advocate**
Phone: 434-947-2266, CVTC, P.O. Box 1098, Lynchburg, VA 24505
- If your complaint is not resolved to your satisfaction, you may request a formal hearing before the Local Human Rights Committee. Tammy Long can assist you with this request.

Consumer Grievance Procedures

Step One: The grievance should be discussed and resolved informally between the persons involved in the conflict.

Step Two: The grievance should be discussed with the supervisor, Program Manager, or if applicable, the staff person on duty at the time and resolved at this level.

Step Three: If not resolved at the program level and if the individual wishes to make a human rights complaint the issue will be submitted to the Human Rights and Privacy Officer. The Human Rights and Privacy Officer acts as the Chief Executive Officer's designee for investigating and reporting of human rights complaints. If the complaint involves rights assured under the *Rules and Regulations to Assure the Rights of Individuals Receiving services from providers licensed, funded, or operated by the Department of Behavioral Health and Developmental Services* the individual and their authorization representative, if applicable, will be informed of the complaint process and the Department will be informed of the complaint. If the complaint does not pertain to these rights the individual will be referred to the appropriate staff or agency for assistance.

Step Four: The Human Rights and Privacy Officer will initiate an investigation. The appropriate parties will be involved during the investigation to resolve the matter.

Step Five: The Human Rights and Privacy Officer will report the organization's decision and action plan to the individual and their authorized representative, if applicable, within ten (10) working days.

Step Six: The determination or the plan of action may be appealed to the Local Human Right Committee within ten (10) working days from receipt of the organization's action plan by filing a petition for a hearing. The individual will be referred to the Human Rights Advocate for assistance with this process and filing a petition.

Step Seven: Within five (5) working days of receiving the LHRC's findings and recommendations, the Human Rights and Privacy Officer shall give the individual, their chosen representative, the human rights advocate, the governing body, and the LHRC a written action plan. The individual, his chosen representative, the human rights advocate, or the LHRC may object to the action plan within five (5) working days by stating the objection and what the organization can do to resolve the objection. If no one objects to the action plan, the organization will begin to implement the plan on the sixth (6) day after the plan was submitted. If an objection is not resolved within two (2) working days the individual may appeal to the State Human Rights Committee.

Throughout the process, any party may contact the Regional Human Rights Advocate for assistance. All hearings shall be closed unless the individual requests that they be open or unless required under the Virginia Freedom of Information Act.

Horizon will take all steps necessary to ensure that the individuals involved in the complaint are protected from retaliation and harm. Horizon will ensure that anyone who believes that their rights have been violated under the regulations mentioned above will be able to report it to the Human Rights and Privacy Officer and the Human Rights Advocate at any time. If the Human Rights Advocate determines there is a likelihood of serious harm or deterioration due to the alleged human rights violation, the LHRC will hold a preliminary hearing within 72 hours of receiving the information.

If you believe that your rights have been violated and you feel that you need outside assistance in voicing your complaint, you may call: **Tammy Long, Human Rights Advocate, at 434-947-2266.** Tammy Long will help you work with the

organization, or, if necessary, with the Local Human Rights Committee to investigate your complaint and try to resolve it.

Advance Medical Directive - Please let us know if you have an Advance Medical Directive.

Horizon is required to ask about the existence of any **advance directives**. If the individual indicates that he/she has issued an advance directive(s), the agency is required to include a copy of such directive(s) in the individual's service record. A **Virginia Advance Medical Directive** is a legal document that lets you state your wishes about medical care in the event that you develop a terminal condition or are in a persistent vegetative state (permanent coma) and can no longer make your own medical decisions. This document is often called a "living will." An advance directive also lets you name someone to make health care decisions on your behalf any time you are unable to make your own medical decisions, even if you do not have a terminal condition. This type of Advance Directive is often called a "medical power of attorney" a "durable power of attorney for health care" or "a health care proxy." Individuals must be aware that an advance medical directive usually will not be effective in the event of a medical emergency. Emergency medical personnel (such as rescue squads or ambulance teams) cannot follow an advance directive when they are called to help in an emergency. Hospital emergency department personnel also may not know of an advance directive in an emergency. Help and information concerning advance medical directives are available from several sources including your local hospitals, your primary care physician, or your personal attorney. An attorney is helpful, but you do not have to have an attorney to prepare either type of advance directive.

Code of Ethics

Through this code of ethics, we affirm that our actions shall be governed by our mission and shall be based on the principle that all persons served their families, staff and visitors deserve to be treated with dignity and respect. *Specifically, we have an obligation to:* Be guided by the laws and regulations of the Commonwealth of Virginia including, but not limited to, the expectation that we will provide the humane care and effective treatment that the public and professions expect; Represent accurately our services, resources, and capabilities to persons served, families, vendors, outside organizations, and the public; Protect confidentiality; Provide high quality services that are necessary and appropriate for the needs of the person served; Support participation of persons served in their own service planning and in their ability to be as autonomous in their decision making as their abilities allow; Respect cultural diversity; Avoid conflicts of interest and adhere to agency policies regarding outside employment; Engage in fair business practices; Deal honestly and fairly with persons served and fellow employees when disagreements in the provision of services develop; Uphold all relevant professional standards and adhere to the codes of ethics of our respective fields; Not discriminate or tolerate discrimination against any person served based on factors not relevant to their services; Not discriminate or tolerate discrimination against any employee based on factors not relevant to their job performance.

Horizon Privacy Notice

Effective Date: April 14, 2003 – Last Revised: January 15, 2014

This notice describes how private personal medical information about you may be used and disclosed and how you can get access to this information. Please review this notice carefully.

Your Privacy is Important to Us: This notice describes how your health information may be used and disclosed while being served at Horizon Behavioral Health (Horizon). Horizon is required to abide by the terms of this notice. We will notify you if changes are made to this notice and make copies of the revised notice available to you.

Documentation: Each time you receive services from us, we make a record of the contact. Types of information kept in your record may include written assessments, individual service plans (ISP), progress notes, diagnoses, treatment records, and transition or discharge plans.

Billing and Payment Use of Your Health Information: To receive payment of services, your health information may be sent to companies or groups responsible for payment coverage. A monthly bill from Horizon is sent to the responsible party you have identified.

Your Privacy Rights: are defined under 45 CFR Parts 160 and 164, HIPAA, The American Reinvestment and Recovery Act of 2009, and The Commonwealth of Virginia's Code 35-115-80 and 35-115-90, Human Rights. The HIPAA *Privacy Rule* establishes rights for recipients of health care and provides clients with authority over their health care information.

The HIPAA Privacy Rule Gives You the Right to:

- **Access to Review and Gain Copies of Your Health Records and Make Corrections:** You have the right to have access to your medical record in order to inspect, challenge, copy, amend, or correct it. This right is not absolute. In certain situations, access may be denied if a physician or psychologist believes that reviewing your records would result in harm to self or others. Make this request by contacting your Primary Service Coordinator or the agency's *Compliance Department*. If denied access, you will receive a timely, written notice of the decision and reason. A copy of this written notice becomes a part of your record.
- **Receive an Accounting of Disclosures:** You have the right to receive an accounting of all disclosures of your protected health information that were not part of providing treatment, receiving payment, or other health care operations, or already authorized by you.
- **Request a Restriction of Specific Horizon Employee Access to Your Records:** You have the right to request a restriction of use and disclosure of your protected health information. We seriously consider all restriction requests and you will be informed whether we are able to apply the restriction and still offer effective services, receive payment, and maintain health care operations. Legally we are not required to agree to a restriction if the restriction keeps us from providing or billing for services.
- **Receive Private & Confidential Communication:** You have the right to receive confidential communications about your protected health information.
- **Change How We Contact You:** You have the right to request an alternative mode of communication or contact for billing purposes and for service related contacts such as calls to remind you about an appointment.

Use & Disclosure of Protected Health Information:

- **"Use" of Your Health Information:** Upon signing the agency's *Consent to Treatment* form, you are allowing Horizon to use and disclose necessary health information about you within the agency and with business associates in order to provide services, collect payments for services provided, and conduct other day to day business practices.
- **Minimum Necessary Rule:** Horizon and its business associates use the minimum amount of health care information necessary when responding to appropriate needs for information.
- **"Disclosure" of Your Health Information:** We are required to get your authorization to use or disclose your protected health information when it is shared outside of the agency. Communication and coordination of services with other providers or agencies may be necessary during the course of providing care. We use a written

Authorization for Use or Disclosure of Protected Health Information form that specifically states what information will be given to whom, for what purpose, and is signed by you or your legal representative. You have the ability to revoke a signed authorization but it would not apply to any sharing of information that already occurred under that authorization. You have a right to obtain a copy of any authorizations you sign.

- **When We Cannot Confirm or Deny:** If Horizon employees or business associates are approached with a request for your health care information that we believe to be unauthorized or for which we have no current or active authorization to disclose information signed by you, then *we cannot confirm or deny* either that you are a client of Horizon or that we possess health care information about you. If you have needs that require our staff to communicate with others for any purpose, such as transportation or appointment dates and times, please notify us so that we can gain an appropriate authorization for the specific type of communication necessary.

Other Ways Horizon May Use Your Health Information:

- **Consultation:** In order to effectively provide services, our clinical staff may consult with various service providers within the agency (use). During consultation health information about you may be shared. When you receive regionally based services and more than one CSB is involved in your care, your health information may be shared among participating providers without your written authorization. However, whenever possible, the coordinating or providing organization will either inform you that information was shared or ask you to authorize the sharing of information. In day-to-day business practices, our trained administrative staff may handle and use your health information when filing documents, storing and securing files and folders, process insurance authorizations, perform billing functions, or assure that your information is current and readily accessible to our clinical staff.
- **Quality Improvement:** As a part of our continuous quality improvement efforts to provide the most effective services, your record may be reviewed by professional auditing staff to assure accuracy, completeness and organization. Your health information may also be reviewed during audits by state and private oversight or regulatory entities.
- **Enhancing Your Healthcare:** Some agency programs provide the following support to enhance your overall health care and may contact you to provide: appointment reminders by phone call or letter informing you about treatment options or information about health-related benefits and services that may be of interest to you. The Clinical services “**Snack Program**” are required by the USDA to maintain a log of persons participating in that program.
- **Specific Circumstances for Disclosure:** Although you have the right to give or not give consent to the disclosure of your health information, Horizon is allowed by federal and state law in certain circumstances to disclose specific health information about you without your consent, authorization, or opportunity to agree or object. Communication or sharing of information may occur for the following:
 - **As required by law** (ex: court-ordered warrant, Virginia Health Information)
 - **Public Health** activities (ex: communicable diseases)
 - **Judicial and Administrative** proceedings (ex: Order from a court or administrative tribunal, or legal counsel to the agency, or Inspector General)
 - **Law Enforcement** purposes (ex: reporting of gun-shot wounds; limited information requested about suspects, fugitives, material witnesses, missing persons; criminal conduct on agency premises)

- **To avert a serious threat to Health and Safety** (ex: in response to a statement made by client to harm self or another, or substantial property damage)
- **To protect children or incapacitated adults** who are victims of abuse, neglect or exploitation by reporting suspected abuse to the Department of Social Services - Child or Adult Protective Services.
- **Specialized Government Functions:** Horizon may communicate with state and federal government in certain situations and for certain purposes without your permission. These include: Military Services (ex: in response to appropriate military command to assure the proper execution of the military mission); National Security and Intelligence activities (ex: in relation to protective services to the President of the United States); State Department (ex: medical suitability for the purpose of security clearance); Correctional Facilities (ex: to correctional facility about an inmate); Workers Compensation to facilitate processing and payment; Coroners and Medical Examiners for identification of a deceased person or to determine cause of death. Documentation will be included in your health record of information disclosed without authorization or those not covered under the permissions granted in the *Consent to Treatment Agreement* or your Individualized Service Plan.
- **Breach Notification:** The *Health Information Technology for Economic and Clinical Health Act* (HITECH), which is part of the American Recovery and Reinvestment Act of 2009 (ARRA) enacted February 17, 2009, requires that Horizon notify you if we discover that your health care information is ever disclosed to, accessed by, or used by an unauthorized person or entity. It also applies to disclosures of protected health information, which compromises the security or privacy of the health information. This type of unauthorized exposure to PHI is referred to as a “breach” and applies to Horizon and its business associates. Horizon must respond to breach events by notifying any and all clients whose information was accessed or disclosed and notify the federal government by informing the Department of Health & Human Services. In the event of a privacy breach of your health information you will receive formal written notification.

Use or disclosure of protected health information that is incident to an otherwise permissible use or disclosure and occurs despite reasonable safeguards and proper minimum necessary procedures would not be a violation of the *Privacy Rule* pursuant to 45 CFR 164.502(a)(1)(iii) and, therefore, would not qualify as a potential breach. Violations of administrative requirements, such as a lack of reasonable safeguards or a lack of training, do not themselves qualify as potential breaches under this law.

- **Disposition and Retention of Medical Records Upon Discharge:** As directed by the Code of Virginia, Horizon Behavioral Health includes this information to inform you of how we handle medical records of persons who are no longer receiving services from our agency. You are welcome to contact us at the address or phone number listed below if you have any questions.

Our standard procedure is to retain medical records for a period of at least six (6) years past the date of discharge. At that time, if there is no indication that the discharged individual is planning to return to our agency to receive services, then the medical records for that individual may be destroyed per Virginia (18VAC85-20-26) which state that practitioners must maintain a patient record for a minimum of six (6) years following the last patient encounter with the following exceptions:

1. Records of a minor child, including immunizations, must be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six (6) years from the last patient encounter regardless of the age of the child;
2. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

3. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

Upon expiration of the retention period, only summary information may be maintained. Summary information includes: person's name, date of birth, dates of admission to and discharge from Horizon services, and, the name and address of legal guardian (if applicable).

If you have any questions, contact Kelly Baldwin, Human Rights and Privacy Officer at (434) 455-3422.

Changes to Privacy Practices: Horizon reserves the right to change any of its privacy policies and related practices at any time, as allowed by federal and state law and to make the change effective for all protected health information that we maintain.

Medicaid Recipient's Right To Appeal

Notification of Procedure for: Medicaid Recipient's Right to Appeal and Fair Hearing If Services Are Terminated, Suspended, Reduced, or Denied. This notification must be provided to recipients of MEDICAID REIMBURSABLE SERVICES upon application for services and at any time an action or decision by Horizon results in a change or reduction of MEDICAID REIMBURSABLE SERVICES. In addition to this notification, You will be informed AT LEAST TEN (10) DAYS IN ADVANCE if the MEDICAID REIMBURSABLE SERVICES that you receive are planned to be terminated, suspended, reduced, denied or otherwise changed. You will also receive an expanded form of this notification which includes ***specific information*** about the change in services and your rights to appeal the change in services. Any decision made by the staff of Horizon that affects your receipt of Medicaid-covered services may be appealed to Department of Medical Assistance Services (DMAS). HOW TO APPEAL: You may appeal a decision to change Medicaid reimbursable services by notifying, in writing to: **Appeals Division, Department of Medical Assistance Services
600 East Broad Street, Suite 1300 - Richmond, Virginia 23219**

A written request for an appeal must be filed within thirty (30) days of a notification of change in services. If you file an appeal before the effective date of this action, (date of service change), services may continue during the appeal process. However, if the decision (to change services) is upheld by the Appeals Division, you will be required to reimburse the Medical Assistance Program for services provided after the date of service change. If you disagree with any future change in Medicaid covered services that result from a decision made by Horizon, you may appeal that decision and the change in services through a written statement. If needed, your assigned Case Manager will assist you in making a written request and assist you in acting on your right to appeal and fair hearing.

A NOTIFICATION OF CHANGE IN SERVICES MUST BE PROVIDED TO RECIPIENTS OF MEDICAID REIMBURSABLE SERVICES EXCEPT FOR THE CONDITIONS OUTLINED BELOW: Advance notice will be reduced to five (5) days if the facts indicate the action is necessary because of probable fraud; and advance notice does not need to be sent if: The recipient has stated in writing that he or she no longer wishes to receive Medicaid services; The recipient gives information that requires the termination of Medicaid, and the recipient knows that this action is the result of giving the information; The recipient has been admitted to an institution where he or she is ineligible for services under the Virginia *State Plan for Medical Assistance*; The recipient moves to another state and has been determined eligible for Medicaid in the new jurisdiction; or The recipient's whereabouts are unknown. The agency will determine that the recipient's whereabouts are unknown if mail sent to the recipient is returned as undeliverable.

Notification of Deemed Consent

Testing and Release of Test Results Related to Human Immunodeficiency Virus or Hepatitis B or C. *As a person receiving services you will be asked to sign the Agency Orientation Checklist to verify that you have had the deemed***

consent law explained to you and that you understand that it applies to you as a person receiving services. ** According to Virginia law Section 32.1-45.1: **In the event that you are exposed to the body fluids of a staff member** while receiving services from Horizon, the staff member will be required to be tested for HIV or Hepatitis B or C. Also, you are entitled by state law to be informed of the staff member's test results. **And, in the event that a staff member is exposed to your body fluids** while you are receiving services from Horizon, Virginia law Section 32.1-45.1 states that you as a person receiving services will be deemed to have consented to be tested for HIV or Hepatitis B or C. In the event that this occurs, the staff member is entitled by state law to be informed of your test results. According to Virginia law, Section 32.1-45.1 "whenever any health care provider, or any person directly exposed to body fluids of a person receiving services in a manner which, according to the then current guidelines of the Center for Disease Control, transmits human immunodeficiency virus (HIV) or Hepatitis B or C virus, the person receiving services whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with HIV or Hepatitis B or C. Such persons receiving services shall also be deemed to have consented to release of such tests results to the person who was exposed." Section 32.1-45.1 also states that "whenever any person receiving services is directly exposed to body fluids of a health care provider...the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with HIV or Hepatitis B or C and the release of such test results to the person receiving services who was exposed."

Horizon Business Contact Information

www.horizonbh.org

Administrative & Finance Department

Phone: (434) 847-8050

Andre' McDaniel, Chief Financial Officer

Address: 2241 Langhorne Road Lynchburg, Virginia 24501

Continuous Quality Improvement (CQI) Department

Beth Ludeman-Hopkins, M.P.A., C.A.C., Director

Phone: (434) 485-8880 FAX (434) 485-8888

State Contact Information

Deaf, Blind, and Hard of Hearing Services

Phone: (800) 552-5019

Virginia Department of Rehabilitative Services

Phone: (434) 947-6721

Secretary of Health and Human Services

Phone: (202) 690-7000

Address: Immediate Office of the Secretary,

Hubert Humphrey Building, 2000, Independence Ave. SW Washington, DC, 20201

Department of Behavioral Health & Developmental Services

Phone: (800) 451-5544

Address: P. O. Box 1797 Richmond, VA 23218

Tammy Long, Human Rights Advocate

Phone: (434) 947-2266

FAX (434) 947-2410

Address: Central Virginia Training Center

P.O. Box 1098 Lynchburg, VA 24505

Northwestern Community Services Board

NORTHWESTERN COMMUNITY SERVICES COMPLAINTS AND INVESTIGATIONS 2016-17

Date of Plan: May 2016, September 2014, July 2012, May 2009, 4/07

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Subsection A: Appointment of Officers

GENERAL POLICY STATEMENT

Northwestern Community Services (NWCS) will investigate in a timely manner the following:

- 1) All complaints regarding the provision of services, the conduct of a staff member, or agency practices, including those related to human rights;
- 2) Alleged violations of agency policy, regulatory standards, or the law;
- 3) Alleged violations related to privacy and confidentiality of health information protected under state or federal law.

NWCS recognizes that the right to privacy and confidentiality pertains to all individuals served, legally authorized representatives for individuals served, and employees of NWCS. All individuals making complaints will be treated with dignity and respect and be informed of their rights regarding privacy and confidentiality when making a complaint.

APPOINTMENT OF INVESTIGATOR AND PRIVACY OFFICER

It is the policy of NWCS to appoint an individual whose primary responsibility is to perform internal investigations and audits as directed by the Chief Executive Officer (CEO). The CEO will make such appointments based upon agency need, the availability of staff, and nature of the specific investigation or audit.

It is the policy of NWCS to appoint an individual as the Privacy Officer. The NWCS Privacy Officer is the Compliance Officer. However, the Chief Executive Officer may, in the absence or unavailability of the Compliance Officer, give other staff the authority to perform privacy investigations.

The Privacy Officer is responsible for:

- 1) Overseeing the development, implementation, review, and revision of agency privacy policies and procedures and ensures that the agency is compliant with all state and federal laws and regulations pertaining to privacy and confidentiality;
- 2) Being a central point of contact for consumers and employees to make complaints regarding privacy and confidentiality of healthcare information; and
- 3) At the direction of the CEO, to perform investigations of those complaints.

SUPERVISION:

- 1) The Compliance Officer is supervised by the Chief Operational Officer (COO).
- 2) The COO is supervised by the Chief Executive Officer (CEO)
- 3) The duties of both the Compliance Officer and COO are outlined in position descriptions.
- 4) The CEO, COO, and Compliance Officer may be contacted at:
Northwestern Community Services
209 West Criser Road, Suite 300, Front Royal, VA 22630, Phone: 540.636.4250

SECTION B: FILING AN INFORMAL COMPLAINT

“Informal Complaint”: For the purposes of this section, an informal complaint is one in which (1) the complainant expresses a desire and/or willingness to resolve the complaint at the lowest possible level, (2) the supervisory staff member receiving the complaint believes the issues can be resolved at their level, and (3) the individual against whom the complaint has been levied is willing to resolve the matter informally.

With respect to client complaints, any individual may file an informal complaint on behalf of an agency client. These complaints may be received by any employee, and will be forwarded to the appropriate program supervisor or manager.

Client-Related Exception to the Informal Complaint Policy

Any individual who believes that a client or applicant for services desires and is willing to resolve an issue at a low level may file an informal complaint with an agency employee and/or the NWCS Chief Operational Officer or designee. Exceptions to this duty are listed immediately below.

- i) All complaints that a client has been the subject of abuse, neglect, or exploitation within a program or by a staff member shall be forwarded immediately to the Chief Executive Officer or designee for review.
- ii) All complaints that a client or applicant for services has been the subject of discrimination, has been wrongfully treated or treated differently from other clients on the basis of race, national origin, sex, age, religion or handicap shall be forwarded to the Chief Executive Officer, as Equal Opportunity Officer, in conformance with State and Federal Statute and Regulation.

Resolving Informal Complaints:

- 1) The employee receiving the complaint shall attempt to resolve the complaint immediately. If the complaint involves an agency employee, the employee will forward the complaint to the appropriate supervisor or manager (hereinafter referred to as supervisor). All other types of complaints will be forwarded to the appropriate supervisor. The supervisor shall then take over the complaint resolution process.
- 2) In managing an informal complaint, the supervisor may choose to meet with, or contact, the following individuals, if possible, and as required by the nature of the complaint:
 - a) The client and/or any representatives that the client authorizes, when applicable
 - b) Any staff member(s) filing the complaint
 - c) Any staff member subject to the complaint, and
 - d) Any other persons deemed to be appropriate.
- 3) A resolution may be reached via a telephone conversation, in person, or in writing. If the complaint is resolved to the complaining party's satisfaction (or in the case of clients, to the client's or legally authorized representative's satisfaction), no further action is required.
- 4) For Staff Member Complaints: If a staff member complaint is not resolved informally, the formal complaint process may be used.
- 5) For Client Human Rights Complaints: The Chief Executive Officer or his designee shall refer to the DBHDS Human Rights Advocate any client complaint that is not resolved to the satisfaction of the client or his authorized representative within 5 working days. The individual or legally authorized representative may contact the Human Rights Advocate at any time to pursue a formal human rights complaint. The Human Rights Advocate shall have access to information regarding all informal complaints upon request.

SECTION C:
AGENCY CLIENTS FILING A FORMAL COMPLAINT

- 1) The formal complaint resolution steps apply if:
 - a) The informal complaint resolution did not resolve the complaint to the individual's satisfaction. For client-related complaints, this must occur within 5 working days;
 - b) The individual chooses to not pursue the informal complaint resolution process
- 2) Any individual who believes that a client or applicant for services has been subject to a violation of Agency Policy, DBHDS Licensing Regulations, Human Rights Regulations or the law may file a formal complaint with the Chief Executive Officer or his designee, and/or the DBHDS Human Rights Advocate. Exceptions to this requirement are listed below.
 - a) All complaints that a client has been subject to abuse, neglect, or exploitation in a program or by a staff member shall be forwarded immediately to the Chief Executive Officer or designee for review. These individuals shall immediately notify the DBHDS Human Rights Advocate and Licensure Specialist, and proper authorities.
 - b) All complaints that a client or applicant for services has been the subject of discrimination, has been wrongfully treated or treated differently from other clients under this section shall be forwarded to the Chief Executive Officer, as Equal Opportunity Officer, in conformance with State and Federal Statute and Regulation.
- 3) If a formal complaint is made only to the Chief Executive Officer or his designee, the Human Rights Advocate will be notified immediately. If the report is made on a weekend or holiday, then the Human Rights Advocate will be notified on the next working day.
- 4) If the report is made only to the Human Rights Advocate, then this individual shall immediately notify the Chief Executive Officer or his designee. If the report is made on a weekend or holiday, then the report will be made on the next business day.
- 5) The Chief Executive Officer or his designee and/or the Human Rights Advocate shall notify the complainant of his right to pursue the complaint through all available means under this part.
- 6) If the Human Rights Advocate concludes, after an initial investigation, that there is substantial risk that serious and irreparable harm will result if the complaint is not resolved immediately, the Human Rights Advocate will inform the Chief Executive Officer or his designee, the NWCS Board of Directors, and the LHRC. The LHRC shall conduct a hearing according to procedures set out in 12 VAC 35-115-190 or other relevant statute, rather than following any other steps listed within this section.

Human Rights Complaints:

- 1) If the complaint involves an NWCS staff member who is alleged to have violated a client's human rights, the following individuals will be notified: (1) the Chief Executive Officer or designee, (2) staff member subject to the complaint, and 3) any other individuals deemed appropriate by the Chief Executive Officer or designee. The unavailability of any individuals shall not prohibit the initiation of an investigation.
- 2) Where applicable, the Chief Executive Officer or designee shall notify the DBHDS Office of Licensure, DBHDS Office of Human Rights, and, when appropriate, the local department of social services or police department, within 24 hours. Additional notifications for complaints alleging discrimination are covered under another section.

Discrimination Complaints

- 1) If the complaint involves an NWCS staff member or program that is alleged to have discriminated against a client or applicant for services, the following individuals will be notified: (1) the Chief Executive Officer or designee, (2) staff member subject to the complaint, and 3) any other individuals deemed appropriate by the Chief Executive Officer or designee. The unavailability of any individuals shall not prohibit the initiation of an investigation.
- 2) Where applicable, the Chief Executive Officer or designee shall notify the DBHDS Office of Licensure, DBHDS Office of Human Rights, and, when appropriate, the local department of social services or police department, within 24 hours.
- 3) Additional notifications for complaints alleging discrimination are covered under Section F.

Other Complaints

- 1) The Chief Executive Officer or designee shall determine the steps of notification, but minimally should include staff member subject to the complaint and any other individuals deemed appropriate by the Chief Executive Officer or designee. The unavailability of any individuals shall not prohibit the initiation of an investigation.

SECTION D:

EMPLOYEES FILING A FORMAL COMPLAINT

- 1) A formal complaint is not a grievance under existing Personnel Policy. Staff members wishing to file a grievance should refer to those policy provisions.
- 2) The formal complaint resolution steps apply if:
 - a) The informal complaint resolution did not resolve the complaint to the employee's satisfaction within a reasonable amount of time.
 - b) The individual chooses to not pursue the informal complaint resolution process
- 3) A formal complaint must be made in writing, and should be directed to the employee's supervisor.
- 4) The formal complaint should be managed in a progressive manner. Any appeals should be directed at each level to the next individual in the supervisory chain of command.
- 5) For formal complaints that reach the level of the CEO, the CEO will make the final ruling. There are no other appeals of the CEO's decision.
- 6) In managing a formal complaint, the supervisor may choose to meet with, or contact, the following individuals, if possible, and as required by the nature of the complaint:
 - a) Any staff member(s) filing the complaint
 - b) Any staff member subject to the complaint, and
 - c) Any other persons deemed to be appropriate.

SECTION E:

PROCEDURES FOR MANAGING INTERNAL INVESTIGATIONS AND INVESTIGATIONS OF FORMAL COMPLAINTS

These procedures do not deny an individual's right to file formal complaints with other state or federal agencies, or to seek private counsel for complaints alleging discrimination. The procedures outlined below are part of an administrative process that do not provide for remedies that include punitive damages or compensatory remuneration. In the case of employees they may, however, result in disciplinary action. Every effort is made to resolve complaints at the lowest level possible.

- 1) If the investigation or formal complaint involves an NWCS staff member, the Chief Executive Officer or designee may prohibit contact between the employee and others (including other employees or agency clients) unless said contact is indicated as part of the investigation and, when indicated, there shall be an impartial observer. Additionally, the Chief Executive Officer or designee may
 - a) Temporarily reassign or transfer the employee involved to a position that has no direct contact with complaining parties or individuals receiving services, or
 - b) Temporarily suspend the involved employee pending completion of the investigation.
 - c) Make the following notifications, depending upon the nature of the complaint and status of the employee:
 - (1) The MIS Department-in order to temporarily deactivate computer system passwords and access;
 - (2) The Payroll Department
 - (3) Human Resources
 - (4) The employee's supervisor
- 2) The Chief Executive Officer or designee shall contact the following individuals as soon as is possible:
 - a) When clients are involved, the client, legal guardian, Authorized Representative and representatives that the client authorizes,
 - b) The individual filing the complaint
 - c) Any staff member subject to the complaint, and
 - d) Other persons deemed to be appropriate.
- 3) The Chief Executive Officer or designee will try to resolve formal complaints by meeting within 24 hours (if reasonably possible) of the receipt of the complaint with the complainant, any representative chosen by the complainant, the Human Rights Advocate and/or others as appropriate, and by conducting an investigation if necessary.
- 4) The CEO or designee shall assign a neutral NWCS supervisor or NWCS human resources employee to be present during any questioning. In this context, "neutral" is defined as an individual who has no administrative authority over the employee. The role of the neutral supervisor is to act as a third party witness, and not a participant, to the investigative interview. The ability or inability of the agency to provide a neutral NWCS supervisor or human resources employee shall not delay any agency investigations.
- 5) The Chief Executive Officer or designee shall give the complainant and his chosen representative a written decision and, when appropriate, an action plan.
 - a) For formal complaints lodged by clients, this shall be done within 10 working days of the CEO receiving the complaint.
 - b) For formal complaints lodged by a staff member, this shall be as soon as is reasonably possible.

- 6) If the complainant is not satisfied at this step, the complainant can respond to the Chief Executive Officer in writing within 5 working days after receiving the Chief Executive Officer or designee's written decision and action plan.
- 7) The Chief Executive Officer or designee shall investigate further as appropriate and shall make a final decision regarding the complaint. The Chief Executive Officer shall forward a written copy of his final decision and action plan to the complainant, his chosen representative, and, where appropriate, the human rights advocate or others as appropriate, within 10 working days after the Chief Executive Officer received the complainant's written response.
- 8) The CEO's final decision is binding, except:
 - a) If a client complainant is not satisfied with the Chief Executive Officer's final decision or action plan, he may file a petition for an LHRC hearing when a human rights complaint is involved, using the procedures prescribed in 12 VAC 35-115-180 or this agency's Human Rights Plan.

SECTION F: PROCEDURES FOR MANAGING EEO OR OTHER COMPLAINTS BASED UPON DISCRIMINATION

All complaints that an individual (staff member, client, or applicant for services) has been wrongfully treated or treated differently from others on the basis of race, national origin, sex, age, religion, handicap, or as a member of any other class of individuals protected under law or regulation, shall be forwarded to the Chief Executive Officer, as Equal Opportunity Officer, in conformance with State and Federal Statute and Regulation.

These procedures do not deny an individual's right to file formal complaints with other state or federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative dispute resolution process that do not provide for remedies that include punitive damages or compensatory remuneration. Every effort is made to resolve complaints at the lowest level possible.

All investigations, including those based upon a claim of potential discrimination, shall conform to guidelines established under this policy. Once final findings are made in such an investigation, the Chief Executive Officer and/or any designee shall take appropriate action in response to such findings. The Chief Executive Officer will confidentially inform the Executive Committee of complaints involving abuse or potential litigation.

Complaints filed under a Title VI claim which are reportable to the Department of Rails and Public Transportation (CRPT) per regulation, shall be reported to DRPT within 3 business days. They will be logged and reported to DRPT on an annual basis on a minimum basis.

SECTION G: MANAGING ALLEGATIONS OF ABUSE, NEGLECT, AND EXPLOITATION OF CLIENTS

Notifications:

These procedures do not deny an individual's right to file formal complaints with other state or federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative dispute resolution process that do not provide for remedies that include punitive damages or compensatory remuneration. Every effort is made to resolve complaints at the lowest level possible.

For the purposes of this section, the definitions for abuses, neglect, and/or exploitation are those found within the DBHDS Human Rights Regulations, other appropriate regulations, or those found within Virginia Code Sections related to Mandatory Reporter requirements for abuse of children or incapacitated adults.

- 1) All complaints that a client has been abused, neglected, or exploited within a NWCS program or by a NWCS staff member, shall be forwarded immediately to the Chief Executive Officer or designee for review. The Chief Executive Officer or designee at his discretion may provide that any such complaint may be forwarded to the staff person responsible for the client's treatment, Site Supervisor, or other responsible individuals. The Chief Executive Officer or his designee shall make all required notifications. The unavailability of any individuals shall not prohibit the initiation of an investigation.
- 2) The Chief Executive Officer or designee shall notify the DBHDS Office of Human Rights.
- 3) If the Chief Executive Officer or designee has reason to suspect that the individual has been abused, neglected, or exploited, a report shall be made to the appropriate local department of social services within 24 hours. If the Chief Executive Officer believes that the abusive, neglectful, or exploitive act is a crime, he shall notify the appropriate law enforcement authorities.
- 4) If the complaint is made only to the Chief Executive Officer or his designee, the Human Rights Advocate will be notified immediately. If the report is made on a weekend or holiday, then the Human Rights Advocate will be notified on the next working day.
- 5) If the complaint is made only to the Human Rights Advocate, then this individual shall immediately notify the Chief Executive Officer or his designee. If the report is made on a weekend or holiday, then the report will be made on the next business day.
- 6) The Chief Executive Officer or his designee and/or the Human Rights Advocate shall notify the complainant of his right to pursue the complaint through all available means under this part.
- 7) If the Human Rights Advocate concludes, after an initial investigation, that there is substantial risk that serious and irreparable harm will result if the complaint is not resolved immediately, the Human Rights Advocate will inform the Chief Executive Officer or his designee, the NWCS Board of Directors, and the LHRC. The LHRC shall conduct a hearing according to procedures set out in 12 VAC 35-115-190, rather than following any other steps listed within this section.

Procedures for Investigating Claims of Abuse, Neglect, or Exploitation of a Client

- 1) NWCS will fully cooperate with any external investigation, including those conducted by the Inspector General, the protection and advocacy agency, or other regulatory or

enforcement agencies that are granted such authority under the Code of Virginia or DBHDS licensing regulations.

- 2) If the complaint involves an NWCS staff member, the Chief Executive Officer or designee may prohibit contact between the client and staff member unless indicated as part of the investigation and, when indicated, there shall be an impartial observer. Additionally, the Chief Executive Officer or designee may
 - a) Temporarily reassign or transfer the employee involved to a position that has no direct contact with individuals receiving services or other staff, or
 - b) Temporarily suspend the involved employee pending completion of the investigation.
 - (1) The MIS Department-in order to temporarily deactivate computer system passwords and access;
 - (2) The Payroll Department
 - (3) Human Resources
 - (4) The employee's supervisor
- 3) The Chief Executive Officer or designee will conduct an impartial investigation within 24 hours of the receipt of the complaint of abuse, neglect, or exploitation. The investigation will be completed by a person trained to do investigations and is not directly involved in the issues under investigation.
- 4) Any staff member subject to a complaint may ask that a supervisor be present during any questioning.
- 5) The Investigator shall make a final report to the Chief Executive Officer or the investigating authority and to the Human Rights Advocate within 10 working days of the appointment. Exceptions to this timeframe may be requested and approved by the department if submitted prior to the close of the sixth day.
- 6) The Chief Executive Officer or investigating authority shall, based on the investigator's report and any other available information, decide whether the abuse, neglect or exploitation occurred. Unless otherwise provided by law, the standard for deciding whether abuse, neglect, or exploitation has occurred is "Preponderance of Evidence". This standard is defined as "existence of the fact in issue is more probable than not" (Barron's Law Dictionary)
- 7) If the abuse, neglect, or exploitation occurred, the Chief Executive Officer shall take any required action to protect the individual and all other individuals. All actions must be documented and reported as required by 12 VAC 35-115-230 or other relevant regulation..
- 8) In all cases, the Chief Executive Officer shall provide written notification of his decision and all actions taken within 7 working days following the completion of the investigation. This notification will be provided to the individual or his legally authorized representative, the Human Rights Advocate, the investigating authority, and the involved employee or employees.
- 9) If the individual affected by the alleged abuse, neglect, or exploitation or his legally authorized representative is not satisfied with the Chief Executive Officer's decision, he or his legally authorized representative, or anyone acting on his behalf, may file a petition for an LHRC hearing under 12 VAC-35-115-180 or other relevant regulation.

SECTION H: SECTION D: WAIVERS, RETALIATION, AND MITIGATION

Waiver: In the absence of any extension as provided above, the failure of a client or complainant to appeal the determination within the time period provided shall constitute a waiver of the complaint.

Retaliation: No action shall be taken or threatened by anyone for the purpose of punishing or retaliating against any client, Advocate, employee or other interested party for presenting a complaint hereunder or for providing assistance to the complaining party.

Mitigation:

- 1) The NWCS Chief Executive Officer or designee should be promptly notified in cases where confidential information (PHI) has been misused or wrongfully disclosed by either an employee or a business associate.
- 2) The following steps will be taken to mitigate the damage of a privacy violation.
 - a) Staff or other agencies or business associates should promptly contact the Privacy Officer to report actual or suspected privacy violations.
 - b) If an employee has misused or wrongfully disclosed protected health information, policies concerning privacy investigations and sanctions will be implemented.
 - c) If a business associate has misused or wrongfully disclosed protected health information, the agency
- 3) Privacy Officer is to:
 - a) Investigate the misuse or wrongful disclosure of the information at the direction of the CEO.
 - b) Determine the seriousness and level of damage of the action.
 - c) Determine if the misuse or wrongful disclosure was repeated.
 - d) Upon completion of the investigation, contact the appropriate department director to report the allegation and investigation results.
 - e) Address the misuse or improper disclosure of protected health information with the business associate.
 - f) Monitor the business associate's performance to ensure that the wrongful behavior has been remedied.
- 4) The agency reserves the right to terminate a Business Associate Agreement in the event the misuse of protected health information continues despite warnings.

SECTION I: COMPLAINTS TO THE NWCS BOARD OF DIRECTORS

Concerned citizens, clients, or prospective clients of the Board's programs may approach members of the NWCS Board of Directors. These contacts may be initiated for a variety of reasons. In order to most effectively respond to these individuals, the following procedures are recommended.

1. Requests for Information About Board Programs:

When individuals ask questions about the services of a particular program, the reason for obtaining information may be simply a matter of interest. More often than not, however, this individual is considering the possibility of seeking service for himself, his family, or a friend. The extent to which this individual is experiencing difficulty may not be obvious. It is therefore

suggested that such requests be handled by asking the individual to call as soon as possible the appropriate program supervisor for complete information. Clients usually respond better to services when they have initiated the relationship with the program on their own. If, for some reason, a Board member wishes to make a particular program aware of a certain referral, this can be done by notifying the Chief Executive Officer or designee. The Chief Executive Officer or designee will then ensure processing/intake of the referral and will follow-up with the Board member as appropriate.

2. Concerns Expressed to the Board Regarding Services

Dissatisfied clients may direct their concerns to Board members. Most often these concerns have to do with the availability of services or admissions procedures. If the client's concern has to do with the availability of a service, the client should be encouraged to contact the Program Supervisor for a complete explanation of the delay. The case may be reviewed by the Chief Executive Officer or designee to be certain of proper handling. If the client is seeking a service that is not available through the Board's services, a referral will be made to a more appropriate resource or an alternative treatment plan will be considered with the individual.

When a client expresses dissatisfaction with their treatment the Board member should inquire whether this dissatisfaction has been brought to the attention of the appropriate staff member and Program Supervisor. The client should be encouraged to do so if this has not occurred already. If the client has done so and (1) continues to be dissatisfied or (2) indicates an unwillingness to deal with staff directly, then the client should be encouraged to contact the Chief Executive Officer or designee directly. The Board member should then notify the Chief Executive Officer or designee of the complaint for the purposes of anticipating the contact, case review, and possibly initiating contact with the client. The referring Board member will be apprised of the complaint resolution as is appropriate within confidentiality restraints. The Chief Executive Officer or designee will also monitor and provide follow-up with the complainant as is indicated.

In the event that the client's concern is not resolved as a result of contacting the Chief Executive Officer or designee, the client will be informed of the formal Human Rights appeal process. The Board member who received the original complaint will be informed of the outcome as is appropriate.

SECTION J: SANCTIONS FOR VIOLATIONS

15. SANCTIONS IN GENERAL

It is the policy of Northwestern Community Services (NWCS) to apply sanctions to employees who fail to comply with NWCS policies and procedures, including the protection of client and staff protected health information as required by agency policy, state and federal law, professional ethics, and other applicable standards.

If an employee is found to be in violation of any agency policy or procedure, the management will implement the agency's disciplinary policies. Such disciplinary action will be based on

supporting documentation and in consultation and agreement with the Human Resources policies. Sanctions will not apply to employees with respect to actions that are covered by or meet the conditions of disclosures by whistleblowers or crime victims.

Employee health information is also considered protected under law and must be protected accordingly.

NWCS staff members are committed to protecting confidential consumer health information. This policy is developed in accordance with the Health Insurance Portability and Accountability Act 1996 (HIPAA), CFR 42-PT 2 Confidentiality Law, Virginia State Human Rights Regulations, and other federal and state laws. HIPAA law requires covered entities such as NWCS to establish and apply appropriate sanctions in response to breaches in confidentiality by staff members. These sanctions are outlined in the NWCS disciplinary policies as outlined within the Personnel Manual.

NWCS has adopted security, privacy, and confidentiality policies requiring its employees, volunteers, and contract agents to protect the integrity and confidentiality of medical records and other sensitive data that contains protected health information. These policies and procedures note that all employees, volunteers, and agents of the agency must adhere to these standards and that the agency will not tolerate violations of these policies. Such violations constitute grounds for disciplinary action up to and including termination, professional discipline and criminal prosecution.

PROCEDURE FOR SANCTIONS REGARDING CONFIDENTIALITY VIOLATIONS:

1) Reporting of Violations

- a) It is the responsibility of all staff to maintain the confidentiality of consumer health information and to report any violations to their supervisor, the NWCS Privacy Officer, the Chief Executive Officer, or designee. Any employee, volunteer, contractor, or agent who believes another employee or agent of the agency has breached the integrity or confidentiality related to a client or other sensitive information should promptly report this information.
- b) If a report is made to a supervisor, the supervisor will notify the NWCS Privacy Officer who will initiate an investigation of the allegations. When the NWCS Privacy Officer completes the investigation, the results and any recommendations will be shared with the supervisor. Disciplinary action, if appropriate, will be decided by the Chief Executive Officer or designee in consultation with and under the guidelines of personnel policies.

2) Progressive Disciplinary Action

- a) Sanctions for breaches in confidentiality may be based on progressive disciplinary action standards.
- b) Whether or not disciplinary action will take place will be based on the severity, intent, negligence, and seriousness of the consequences of the violation. However, this policy

does not mandate the use of a lesser sanction before NWCS terminates an employee for a serious breach of law or regulations.

- c) The degree of disciplinary action may range from a warning up to and including termination as outlined in the NWCS Personnel Policy Manual. Each episode of employee disciplinary action concerning protected health information is to be documented in accordance with NWCS policy.
 - d) The severity of the disciplinary action will be determined according to:
 - 1. The severity of the violation.
 - 2. Whether the violation was intentional.
 - 3. Whether the violation indicates a pattern of practice of wrongful use or disclosure of protected health information.
- 3) Prohibition of Retaliatory Action
- a) The agency will not tolerate retaliation or reprisals against the complainant of a compliance issue. Reports and allegations must be made in good faith.
 - b) Reporting of HIPAA violations is protected from retaliation under the Whistleblowers section of the regulation.
- 4) Criminal Offense under HIPAA (Health Insurance Portability Act 1996)
- a) Violation of the agency's security, privacy, and confidentiality policies and standards may constitute a criminal offense under HIPAA or federal regulations, such as the Federal Computer Fraud and Abuse Act of 1986, 18 U.S.C. 1030, 42 CFR, Pt. 2, or state laws.
 - b) Any employee, volunteer, intern, or contractor who violates such a criminal law should expect that NWCS will provide information concerning the violation to the appropriate law enforcement personnel and will cooperate with any law enforcement investigation or prosecution.
- 5) Professional Ethics Violations
- a) Violations of the agency's policies on security, privacy, and confidentiality may constitute violations of professional ethics and be grounds for professional discipline.
 - b) Any individual subject to professional ethics guidelines and /or professional discipline should expect the agency to report such violations to appropriate licensure/ accreditation agencies and to cooperate with any professional investigation or disciplinary proceedings.

Rappahannock Area Community Services Board

Rights

You have the right to be treated with dignity and respect.

INFORMATION ABOUT YOUR RIGHTS

Your rights are protected by:

- The United States Constitution,
 - State Law, and
 - The "Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services" (You, your family member, or another person you name, may receive a copy of this information from any RACSB employee or the Local Human Rights Advocate. The Advocate will help you if you have any questions.).
- Your Advocate will help you assert your rights. Your Advocate will help you:
- Understand the services you are receiving.

● Understand your rights and file a complaint when you think your rights have been violated. If you have any questions about your rights, please contact your Advocate by calling 540-899-4616, or by asking any employee to contact the Advocate on your behalf.

You will receive written information about the resolution of your complaint no later than 15 business days after you made your complaint.

SERVICES/TREATMENT

We believe you have the right to the best services available to meet your individual needs.

● RACSB provides services that are sensitive to each person's age, gender, social preferences, cultural orientation, language, psychological characteristics, sexual orientation, physical situation, spiritual beliefs, and socioeconomic status.

● RACSB does not allow physical abuse, including sexual abuse and physical punishment.

● RACSB does not allow psychological abuse, including humiliating, threatening, and exploiting actions, including financial exploitation.

● RACSB works to make access and referral for guardians, self-help groups, and advocacy services easier. This agency works through local advocacy groups, such as:

● National Alliance on Mental Illness - Rappahannock (NAMI-R);

● The ARC of Virginia;

● Mental Health America of Fredericksburg;

● DisAbility Resource Center;

● And many others.

YOU HAVE THE RIGHT

● To be told about the services you receive;

● To state your preferences and give consent for services and treatment;

● To have your records kept confidential;

● To see your records and note any mistakes; and

● To an impartial review of your complaints. There will be no retribution for filing a complaint.

● To a choice of available staff to the extent possible; you can request a change at any time.

● To refuse service(s) if involuntary or crisis intervention services are not required.

IN RESIDENTIAL PROGRAMS, YOU HAVE THE RIGHT

● To be called by the name you prefer;

● To good and nutritious food;

● To a clean and comfortable environment;

● To send and receive mail;

● To apply for assistance for which you qualify;

● To receive help in exercising your rights; and

● To be protected from harm, abuse, neglect, and exploitation (including financial).

RACSB does not use seclusion or restraint in any of our programs.

EXERCISING YOUR RIGHTS

If you believe any of your rights have been violated, inform a staff member immediately. Any RACSB staff member can help you file a complaint. You can also call your Local Human Rights Advocate at 540-899-4616. Or, call the Regional Human Rights Advocate at 804-382-3889.

KNOWLEDGE OF RIGHTS POLICY

I have read or have been informed of the Human Rights Policy of the RACSB. I understand that this means the following:

● If I believe my rights have been violated, I will attempt to resolve my concern by discussing it with my therapist, case manager, or appropriate staff member. If I prefer, I may contact RACSB

Consumer Affairs/Local Human Rights Advocate directly at 540-899-4616. This Advocate will help me file a complaint and assist me in resolving my complaint, up to the state level, if necessary.

- If I am not satisfied with the outcome, I may ask the Advocate to contact the Regional Advocate (804-382-3889) and request a hearing before the Local Human Rights Committee.
- If I want to further appeal the decision of the Local Human Rights Committee, I may request that the RACSB Advocate contact the Regional Advocate to schedule a hearing with the State Human Rights Committee.

Please indicate on your Agency Orientation Form that you have been informed of your rights. These rights will be reviewed with you on an annual basis.

Rappahannock Rapidan Community Services Board

If you believe that your rights have been violated and you need assistance making your complaint, you may contact your primary staff member directly or contact a RRCS Quality Analyst at (540) 825-3100. Your primary staff member or Quality Analyst staff will assist you with resolving your complaint and provide you with information and help you with the appeal process, if needed. Please bring your complaint to RRCS staff as soon as possible.

If you have questions about your fees or your bill, please contact Reimbursement staff in the clinic where you receive services or at our administrative office (825-3100).

Human Rights Complaints should be communicated to Agency staff as outlined below.

Human Rights Complaint Process

Informal Process

1. It is usually quicker and more satisfactory to resolve a complaint informally. To make a complaint informally, speak to your primary staff member, another RRCS employee, a program manager, a RRCS Quality Analyst or the Regional State Human Rights Advocate. These individuals will help try to resolve your complaint.
2. If you are not able to resolve your complaint you may contact an RRCS Quality Analyst at 825-3100. He or she will help you with your complaint.
3. If, after five business days, you are not satisfied that progress is being made toward a resolution then the complaint will be handled formally unless you agree to extend the time limit for the informal process.

Formal Process

1. You can have a complaint handled formally by putting your complaint in writing and sending it to the Agency Executive Director (staff will assist you if you wish) or by contacting the Regional State Human Rights Advocate.

2. After your request for formal complaint handling has been received a representative of the Executive Director will contact you (if someone has not already met with you) to discuss your complaint and attempt to resolve it.
3. Within ten days the Executive Director or his/her representative will provide a written decision and response to your complaint.
4. If you don't agree with the Executive Director's decision you must tell the Executive Director - in writing and within 5 days - that you want to appeal the Executive Director's decision.
5. If you appeal the Executive Director's decision, the Executive Director will investigate further if needed. Within ten working days the Executive Director will then make a final decision about your complaint.
6. If you still don't agree with the Executive Director's final decision you can appeal to the Local Human Rights Committee by filing, in writing and within ten working days, a petition for a hearing by the Local Human Rights Committee. An RRCS staff member or the Regional Human Rights Advocate can help you with this.

The Executive Director or the Chairperson of the Local Human Rights Committee may grant extensions to the time limits stated in the steps of the appeal procedure if there is good cause for doing so. Otherwise, failure to follow the time periods allowed shall constitute a waiver of the right to grieve the incident.

Freedom from Retaliation

It is our policy that individuals served may make complaints without fear of retaliation. Please contact Quality Analyst staff or the Executive Director if you believe you have been subject to retaliation for making a human rights complaint.

Help in Making a Complaint

If you need help making a complaint, contact your primary staff member or a program supervisor. If you wish to get help from someone else contact one of the following:

RRCS Quality Analyst 825-3100

In addition to contacting RRCS staff, you may contact State advocates to assist you:

- For Human Rights complaints about mental health, mental retardation and substance abuse services call Chuck Collins, the DBHDS Regional Advocate, at 1-877-600-7437.
- For Aging services, call the Virginia Department for the Aging Ombudsman at 1-800-552-3402;

These individuals will help you work with RRCS staff or, if necessary, with the Local Human Rights Committee, to investigate your complaint and try to resolve it.

Region Ten Community Services Board

Standard: 12 VAC 35-115-160

12 VAC 35-115-170

12 VAC 35-115-180

Effective: November 1988

Revised: October 2009

Reviewed: January 2015

Complaints

Policy

Persons, their advocates, families or guardians who take exception to a Region Ten protocol, staff decision or feel their rights have been violated, have the right to have their complaints heard. It is the protocol of Region Ten Community Services Board that persons, their families, authorized representatives, or advocates be given opportunity to voice complaints, free from restraint, interference, coercion, discrimination or reprisal. Complaints may fall into one of two categories, general complaints and human rights complaints. General complaints concern general operations of facilities, suggestions on improving services, and other miscellaneous items. Human Rights complaints involve policies, decisions, or practices that the person or their advocate feel are in violation of their Human Rights, outlined in the Welcome to Region Ten brochure.

Protocol

A. General Complaints

1. Anyone who has a general complaint regarding Region Ten services should contact the Director of the program involved.
 - a. The Director will:
 - i. Refer all Human Rights complaints to the compliance services manager.
 - ii. Link individuals or advocates to appropriate manager/director.
 - iii. Present all general complaints to the Compliance Services Manager.
2. Persons or their advocates may make suggestions regarding services to the Director of the program.

- a. The Director will:
 - i. Review suggestions on a monthly basis; and
 - ii. Present suggestions to the Senior director.

B. Notification

1. Anyone who believes that a Region Ten provider has violated an individual's rights as outlined in the Human Rights Guidelines, may report the alleged violation to the Compliance Services Manager (434-972-1868) or the Human Rights Advocate for resolution.
2. If the report is made only to the director/designee, the director/designee shall immediately notify the Compliance Services Manager and the human rights advocate. If the report is made on a weekend or holiday, then the director/designee shall notify the Compliance Services Manager and the human rights advocate on the next business day.
3. If the report is made only to the human rights advocate, the human rights advocate shall immediately notify the director/designee and the Compliance Services Manager. If the report is made on a weekend or holiday, then the human rights advocate shall notify the director/designee and the Compliance Services Manager on the next business day.
4. The human rights advocate or the director/designee or the Compliance Services Manager shall discuss the report with the individual and explain:
 - a. their right to pursue a complaint,
 - b. the steps in the complaint process, and
 - c. their choice as to how to proceed

C. Informal Complaint Process:

1. The Compliance Services Manager shall:
 - a. Email the appropriate director
 - b. Notify the Human Rights Advocate if it is a Human Rights Complaint.
 - c. Attempt to resolve the complaint immediately.
2. No further action is necessary, if the complaint is resolved.
3. Unresolved complaint:
 - a. The individual may extend the process for 5 days.

- b. All extensions shall be reported to the executive director and the local human rights advocate.
- c. No further action is necessary, if the complaint is resolved.

D. Formal Complaint Process

1. The director/designee shall try and resolve the complaint by meeting with the individual, any representative the individual chooses, within 24 hours of receipt of the complaint or the next business day.
2. The director/designee shall conduct an investigation of the complaint, if necessary.
3. The director/designee shall give the individual and his chosen representative:
 - a. a written preliminary decision,
 - b. an action plan for resolving the complaint within 10 working days of receiving the complaint, if appropriate, and
 - c. the timeline for appealing this decision.
4. If the individual disagrees with the director/designee and responds within 5 working days, the director/designee will investigate further as appropriate.
5. If the individual has not responded, the complaint will be closed.
6. The director/designee shall forward a written copy of:
 - a. His/her final decision,
 - b. An action plan,
 - c. the appeal process, and,
 - d. a statement that if the individual does not respond the complaint will be closed to the individual, his chosen representative, and the human rights advocate within five working days after the director receives the individual's written appeal.
7. If the individual disagrees with the director's final decision or action plan, he may file a petition for a hearing by the LHRC.
8. If at any time during the complaint process the human rights advocate concludes that there is substantial risk that serious or irreparable harm will result if the complaint is not resolved immediately, the LHRC shall conduct an emergency hearing.

E. Local Human Rights Committee Review

1. A petition for a LHRC hearing must be filed within ten working days of the executive director's action or final decision.
 - a. The petition must be in writing.
 - b. It should contain all facts and arguments surrounding the complaint and reference section[s] of the regulation that were believed to be violated.
 - c. The human rights advocate or any person the individual chooses may help in filing the petition.
2. The executive director/designee has 5 working days, after being notified of the petition, to provide to the LHRC a written response to the petition and a copy of the entire written record of complaint.
 - a. The LHRC shall hold a hearing within 20 working days of receiving the petition.
 - b. All parties involved will have at least five working days' notice of the hearing.
 - c. The Director or designee shall attend the hearing.
 - d. The individual or authorized representative shall attend the hearing.
 - e. The parties and their chosen representatives may present witnesses and other evidence.
 - f. Within ten working days of the end of the hearing, the individual, the parties, and their representatives will receive the LHRC findings and recommendations.
 - g. The executive director/designee will respond to the individual, with a written action plan to the LHRC findings, within five working days of G.
 - h. The individual, his chosen representative, the human rights advocate or the LHRC, may object to the action plan within five working days by stating the objection and possible resolution of H.
 - j. If resolution to the objection is not reached within two working days, the individual may appeal to the State Human rights Committee within ten working days of receipt of the final action, as outlined in 12 VAC 35-115-210.

Rockbridge Area Community Services Board

Rockbridge Area Community Services Policy 7-11 Human Rights

Section 11.0 Complaints and fair hearing

POLICY

Any client, client authorized representative, guardian, advocate, or other person who has reason to believe that a client or an applicant for services has been subject to any violation of the Human Rights Policies and Procedures may report such to program staff, the Executive Director, the DBHDS Office of Client Services, and/or the Regional Human Rights Advocate. All employees are encouraged to relay initial concerns regarding allegations of Human Rights violations through his chain of command.

PROCEDURES

1. In the event an individual makes a complaint, RACS shall make every attempt to resolve the issue to the individual's satisfaction, at the earliest possible step, and in a timely manner with a fair review.
2. RACS will not take, threaten to take, permit, or condone any action to retaliate against or prevent anyone from filing a complaint or helping an individual to file a complaint.
3. RACS shall assist the complainant in understanding the full process of complaint, the options for resolution, and the elements of confidentiality involved.
4. All communication with the individual during the complaint resolution process shall be in the manner, format, and language most easily understood by the individual.
5. The parties to any complaint are the individual and the director. Each party can also have anyone else represent him during resolution of the complaint. The director shall make every effort to resolve the complaint at the earliest possible stage.

Complaint Resolution Process

GUIDELINE

Clients or their authorized representative shall be assisted through the formal complaint process in the event the informal complaint process does not produce a resolution within five working days. The formal complaint process will also be initiated in issues relating to discrimination, and allegations of abuse, neglect, or exploitation. Anyone who believes that an employee of RACS has violated an individual's rights under these regulations may report it to the Executive Director, a Director or the Human Rights Advocate, or either of them, for resolution.

PROCEDURES

1. If the report is made to the Executive Director or a director, she shall immediately notify the Human Rights Advocate. If the report is made to the Human Rights Advocate, the Human Rights Advocate shall immediately notify the Executive Director or director. If the report is made on a weekend or holiday, then either party shall notify the other party on the next business day.
 - a. Discuss the report with the individual and notify the individual of her right to pursue a complaint through the process established in these regulations. The steps in the informal and formal complaint process shall be thoroughly explained to the individual.

2. The Advocate or the Executive Director or her designee shall ask the individual if she understands the complaint process and the choice that she has before asking the individual to choose how she wishes to pursue the complaint. The individual shall then be given the choice of pursuing the complaint through the informal or formal complaint process. If the individual does not make a choice, the complaint shall be managed through the informal process.

3. The following steps apply if the complaint is pursued through the informal process:

a. Step 1: The Executive Director or director or her designee shall attempt to resolve the complaint immediately. If the complaint is resolved, no further action is required.

b. Step 2: If the complaint is not resolved within five working days, the Executive Director or director or her designee shall refer it for resolution under the formal process. The individual may extend the informal process for a five day time frame for good cause. All such extensions shall be reported to the human rights advocate by the Executive Director or director or her designee.

4. The following steps apply if the complaint is pursued through the formal process:

a. Step 1: The Executive Director or director or her designee shall try to resolve the complaint by meeting with the individual, any representative the individual chooses, and the human rights advocate within 24 hours of receipt of the complaint or the next business day if that day is a weekend or holiday. The Executive Director or director or her designee shall conduct an investigation of the complaint, if necessary.

b. Step 2: The Executive Director or director or her designee shall give the individual and her chosen representative a written preliminary decision and, where appropriate, an action plan for resolving the complaint within 10 working days of receiving the complaint. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step 3 of this subdivision, information about how to contact the human rights advocate for assistance with the process, and a statement that the complaint will be closed if the individual does not respond.

c. Step 3: If the individual disagrees with the Executive Director or director's preliminary decision or action plan, she can respond to the director in writing within five working days after receiving the preliminary decision and action plan. If the individual has not responded within five working days, the complaint will be closed.

d. Step 4: If the individual disagrees with the preliminary decision or action plan and reports her disagreement to the Executive Director or director within five working days after receiving the decision or action plan, the Executive Director or director shall investigate further as appropriate and shall make a final decision regarding the complaint. The Executive Director or director shall forward a written copy of her final decision and action plan to the individual, her chosen representative, and the human rights advocate within five working days after the Executive Director or director receives the individual's written response. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step 5 of this subdivision, information about how to contact

the human rights advocate for assistance with the process, and a statement that if the individual does not respond the complaint will be closed.

e. Step 5: If the individual disagrees with the Executive Director or director's final decision or action plan, she may file a petition for a hearing by the LHRC using the procedures prescribed in 12 VAC 35-115-180. If the individual has accepted the relief offered by the Executive Director or director, the matter is not subject to further review. If at any time during the formal complaint process the human rights advocate concludes that there is a substantial risk that serious or irreparable harm will result if the complaint is not resolved immediately, the human rights advocate shall inform the Executive Director or director, the provider, the provider's governing body and the LHRC. Steps 1 through 5 of this section shall not be followed. Instead, the LHRC shall conduct a hearing according to the special procedures for emergency hearing in 12 VAC 35-115-180.

5. Local Human Rights Committee (LHRC) Hearing and Review Procedures.

a. Any client or authorized representative as applicable who does not accept the relief offered by the Executive Director or director or her designee with (1) an Executive Director's final decision and action plan resulting from the complaint resolution; (2) an Executive Director's final action following a report of abuse, neglect or exploitation; or (3) an Executive Director's final decision following a complaint of discrimination in the provision of services may request a LHRC hearing by following the steps provided below:

1. Step 1: The petition must be filed within 10 working days of the Executive Director's action or final decision for which there is a complaint. The petition for hearing must be in writing. It should contain all facts and arguments surrounding the complaint and reference any section of the regulations that the individual believes the provider violated. The Human Rights Advocate or any person the individual chooses may help the individual in filling the petition. If the individual chooses a person other than the Human Rights Advocate to help her, she and her chosen representative may request the Advocate's assistance in filing the petition.

2. Step 2: The LHRC chair shall forward a copy of the petition to the Executive Director and the Human Rights Advocate as soon as it is received. A copy of the petition shall also be forwarded to the provider's governing body.

3. Step 3: Within five working days, the Executive Director shall submit the following to the LHRC:

a. A written response to everything contained in the petition.

b. A copy of the entire written record of the complaint.

4. Step 4: The LHRC shall hold a hearing within 15 working days of receiving the petition.

a. The parties shall have at least five working day's notice before the hearing.

- b. The Executive Director or her chosen representative shall attend the hearing. The individual or authorized representative, as applicable, making the complaint shall attend the hearing.
- c. At the hearing, the parties and their chosen representatives have the right to present witnesses and other evidence and the opportunity to be heard.

5. Step 5: Within 10 working days after the hearing ends, the LHRC shall give, in writing, its findings of fact and recommendations to the parties and their representatives. Whenever appropriate, the LHRC shall identify information that it believes the Executive Director shall take into account in making decisions concerning the discipline or termination of personnel.

6. Step 6: Within five working days of receiving the LHRC's findings and recommendations, the Executive Director shall give the individual, the individual's chosen representative, the Human Rights Advocate, the governing body, and the LHRC a written action plan she intends to take to respond to the LHRC's findings and recommendations and provide written notice to the individual about the time frame for the individual's response pursuant to Step 7 and a statement that if the individual does not respond that the complaint will be closed. The plan shall not be implemented for five working days after it is submitted, unless the individual receiving services agrees to its implementation sooner.

7. Step 7: The individual, her chosen representative, the Human Rights Advocate, or the LHRC may object to the action plan within five working days by stating what the objection is and what the Executive Director can do to resolve the objection.

a. If an objection is made, the Executive Director may not implement the action plan, or may implement only that portion of the plan that the individual making the complaint agrees to, until she resolves the objection as requested or until she appeals to the (State Human Rights Committee) SHRC for a decision.

b. If no one objects to the action plan, the Executive Director shall begin to implement it on the sixth working day after she submitted it.

8. Step 8: If the Executive Director does not resolve the objection to the action plan to the individual's satisfaction within two working days following the objection, the individual may appeal to the SHRC.

6. Special procedures for emergency hearings by the LHRC.

a. Step 1: The Human Rights Advocate informs the LHRC of a substantial risk that serious and irreparable harm will result if a complaint is not resolved within 72 hours of receiving this information.

1. The Executive Director and the human rights advocate shall attend the hearing.

2. The individual and the authorized representative may attend the hearing.

3. The hearing shall be conducted according to the procedures listed above, but it shall be concluded on an expedited basis.

b. Step 2: At the end of the hearing, the LHRC shall make preliminary findings and, if a violation is found, shall make preliminary recommendations to the Executive Director, the provider, and the provider's governing body.

c. Step 3: The Executive Director shall formulate and carry out an action plan within 24 hours of receiving the LHRC's preliminary recommendations. A copy of the plan shall be sent to the Human Rights Advocate, the individual, and the governing body.

d. Step 4: If the individual or the Human Rights Advocate objects within 24 hours to the LHRC findings or recommendations or to the Executive Director's action plan, the LHRC shall conduct a full hearing within five working days of the objection.

e. Step 5: Either party may appeal the LHRC's decision to the SHRC.

7. Special Procedures for LHRC Reviews Involving Consent and Authorization

a. Step 1: The LHRC may be requested, in writing, to review whether an individual's personal consent is required in the following situations.

1. If an individual objects at any time to a specific human research, or disclosure of specific confidential information for which consent is required and has been given by her authorized representative, other than a legal guardian, she may ask the LHRC to decide whether her personal consent is required for that treatment, participation in research, or disclosure of information.

2. If an individual or her family member has obtained an independent evaluation of the individual's capacity to give any informed consent to treatment or participation in human research and the opinion of that evaluator conflicts with the opinion of the provider's evaluator, the LHRC may be requested to decide whether the individual's personal consent is required for any treatment or participation in research.

3. If an Executive Director makes a decision that affects an individual and the individual believes that the decision requires her personal consent or that of her authorized representative, she may object and ask the LHRC to decide whether consent is required.

NOTE: If the individual is a minor, the consent of the parent or legal guardian must be obtained, unless the treatment provided is for treatment referenced under §54.1-2969 E of the Code of Virginia, including outpatient medical or health services for substance abuse, or mental illness or emotional disturbance, in which case the minor alone may provide the consent as if an adult. If treatment involves admission to an inpatient treatment program, the consent of a minor 14 years of age or older, in addition to that of the parent, must also be obtained.

b. Step 2: The LHRC may ask that a physician or licensed clinical psychologist not employed by the provider and at the provider's expense, evaluate the individual and give an opinion about her capacity to consent. The LHRC may not make a decision until it reviews the action proposed by

the Executive Director, any determination of lack of capacity, the opinion of the independent evaluator if applicable, and the individual's reasons for objecting to that determination.

c. Step 3: The LHRC shall issue its decision within 10 working days of the initial request.

1. If the LHRC agrees that the individual lacks the capacity to consent, the Executive Director may begin or continue treatment or research, or disclose the information, but only with the appropriate consent of the authorized representative. The LHRC shall advise the individual of her right to appeal this determination to the State Human Rights Committee (SHRC).

2. If the LHRC does not agree that the individual lacks the capacity to consent, the Executive Director shall not begin any treatment, research or information disclosure without the individual's consent, or shall take immediate steps to discontinue use of medication if it has already begun. The Executive Director may appeal to the SHRC but may not take any further action until the SHRC issues its opinion.

3. If, regardless of the individual's capacity to consent, the LHRC determines that a decision made by the Executive Director requires consent that was not obtained, the Executive Director shall immediately rescind the action unless and until such consent is obtained. The Executive Director may appeal to the SHRC but may not take any further action until the SHRC issues its opinion.

Valley Community Services Board

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Human Rights Regulations 3.10	ORIGINAL DATE:	REVISION DATE:
SUBJECT:	Complaint and Fair Hearing 12 VAC 35-115-140	06/02	03/2008

COMPLAINT AND FAIR HEARING PROCESS

The policy of VCSB is to acknowledge that each individual has a right to:

1. Complain that VCSB has violated any of the rights assured under the Human Rights regulations.
2. Have a timely and fair review of any complaint according to the procedures in the Complaint Resolution, Hearing, and Appeal Procedure;
3. Have someone file a complaint on his behalf;
4. Use these and other complaint procedures; and
5. Complain under any other applicable law, including complain to the protection and advocacy agency.

If an individual makes a complaint, VCSB shall make every attempt to resolve the complaint at the earliest possible step. VCSB shall not take, threaten to take, permit, or condone any action to retaliate against anyone from filing a complaint or prevent anyone from filing a complaint or helping an individual to file a complaint. VCSB treatment providers shall assist the complainant in understanding the full complaint process, the options for resolution including the formal and informal complaint process, and the confidentiality elements involved.

VCSB providers shall adhere to all provisions of the "Rule and Regulations" relating to the hearing, resolution, and appeals of complaints.

It is the policy of Valley Community Services Board that consumers, their families, authorized representative, guardians, and advocates are given the opportunity to voice concerns and address any problems with services or access to services provided by VCSB.

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Complaint Resolution Process	ORIGINAL DATE:	REVISION DATE:
	3.1 page1	06/02	03/2008
SUBJECT:	Informal Process		
	12 VAC 35-115-170		

INFORMAL PROCESS

Step I

The consumer and/or designee are encouraged to discuss the concerns with staff involved to informally resolve any perceived conflict. The Executive director or his designee shall attempt to resolve the complaint immediately. If the complaint is resolved, not further action is required. Minor/non-critical issues (i.e. - brands of cigarettes, lunchbox contents, etc.) will be documented in the client's record along with the prescribed resolution and monitored regularly so as to avert them from becoming increasingly significant issues and define potential ongoing issues.

Non-Minor/critical issues will be recorded on the Step I information sheet and, if resolved, routed to the appropriate Program Director along with the prescribed resolution.

Step II

If there is not an agreed upon resolution the consumer within five working days, the Executive director or his designee shall refer it for resolution under the formal process. The individual may extend the informal process five-day time frame for good cause. All such extensions shall be reported to the human rights advocate. There will be a review of the step I information sheet and a discussion of possible remedies. Upon completion of the step II meeting a step II information sheet must be completed. If there is a resolution the information will be routed to the appropriate Program Director and kept on file there.

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Complaint Resolution Process 5.2 Page 2	ORIGINAL DATE: 06/02	REVISION DATE: 03/2008
SUBJECT:	Formal Process 12 VAC 35-115-170		

Formal Complaint Process

It is the policy of Valley Community Services Board to assist consumers or their authorized representatives through the complaint process.

Procedures

Formal complaint resolution process- Anyone who believes that an employee of Valley Community Services Board has violated an individual's rights under these regulations may report it to the Executive Director and the human rights advocate, or either of them, for resolution.

Step 1: Complaint is reported to advocate or Executive Director.

- If the report is made only to the Executive Director or his designee, the Executive Director shall immediately notify the human rights advocate.
- The director or his designee shall try to resolve the complaint by meeting with the individual, any representative the individual chooses, the human rights advocate, and others as appropriate within 24 hours of receipt of the complaint or the next business day if that day is a weekend or holiday. The Executive Director or his Designee shall conduct an investigation of the complaint, if necessary. If the report is made only to the human rights advocate, the human rights advocate shall immediately notify the Executive Director or his designee. If the report is made on a weekend or holiday, then the human rights advocate shall notify the Executive Director or his designee on the next business day.
- **Step 2:** The Executive Director or his designee shall give the individual and his chosen representative a written preliminary decision and, where appropriate, an action plan for resolving the complaint within 10 working days of receiving the complaint. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step # 3 of this subdivision, information on how to contact the human rights advocate for assistance with the process and a statement the complaint will be closed if the individual does not respond.

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Human Rights Regulations 3.2 Page 2	ORIGINAL DATE: 06/02	REVISION DATE: 03/2008
SUBJECT:	Formal Complaint Process 12 VAC 35-115-170		

Step 3: If the individual disagrees with the Executive Director preliminary decision or action plan, he can respond to the director in writing within five working days after receiving the preliminary decision and action plan. If the individual has not responded within five working days, the complaint will be closed.

Step 4: If the individual disagrees with the preliminary decision or action plan, and reports his disagreement to the director in writing within five working days after receiving the decision or action plan, the director shall investigate further as appropriate and shall make a final decision regarding the complaint. The Executive Director shall forward a written copy of his final decision and action plan to the individual, his chosen representative, and the human rights advocate within five working days after the director receives the individual's written response. Along with the action plan, the director shall provide written notice pursuant to Step 5 of this subdivision, information about how to contact the human rights advocate for assistance with the process, and a statement that if the individual does not respond that the complaint will be closed.

Step 5: If the individual disagrees with the Executive Director's final decision or action plan, he may file a petition for a hearing by the LHRC using the procedures prescribed in 12VAC35-115-180. If the individual has accepted the relief offered by the Executive Director, the matter is not subject to further review.

If at any time during the formal complaint process the human rights advocate concludes that there is substantial risk that serious or irreparable harm will result if the complaint is not resolved immediately, the human rights advocate shall inform the Executive Director, the provider, the provider's governing body, and the LHRC.

- Steps 1 through 5 of subdivision A 5 of this section shall not be followed. Instead, the LHRC shall conduct a hearing according to the special procedures for emergency hearings in 12VAC35-115-180.

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Human Rights Regulations 5.3 Page 1	ORIGINAL DATE: 06/02	REVISION DATE: 03/2008
SUBJECT:	Local Human Rights Committee hearing and review procedures 12 VAC 35-115-180		

Local Human Rights Committee (LHRC) Hearing and Review Procedures

- Any individual or authorized representative as applicable who does not accept the relief offered by the Executive Director of disagrees with (i) an Executive Director's final decision

and action plan resulting from the complaint resolution; (ii) an Executive Director's final action following a report of abuse, neglect or exploitation; or (iii) and Executive Director's final decision following a complaint of discrimination in the provision of services may request an LHRC hearing by following the steps provided below:

- Step 1: The individual or authorized representative must file the petition for a hearing with the LHRC within 10 working days of the Executive Director's action or final decision on the complaint.
- The petition for hearing must be in writing. It should contain all the facts and arguments surrounding the complaint and reference any section of the regulations that the individual believes the provider violated.
- The human rights advocate or any persons the individual chooses may help the individual in filing the petition. If the individual chooses to a person other than the human rights advocate to help him, he and his chosen representative may request the human rights advocate's assistance in filing the petition.
- Step 2: The LHRC chair shall forward a copy of the petition to the Executive Director and the human rights advocate as soon as it is received. A copy of the petition shall also be forwarded to the provider's governing body.
- Step 3: Within five working days, the Executive Director shall submit the following to the LHRC:
 - A written response to everything contained in the petition.
 - A copy of the entire written record of complaint.
- Step 4: The LHRC shall hold a hearing within 20 working days of receiving the petition.
 - The parties shall have at least five working days notice of the hearing.
 - The Executive Director or his chosen representative shall attend the hearing. The individual or authorized representative, making the complaint shall attend the hearing.

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Human Rights Regulations 5.3 Page 2	ORIGINAL DATE:	06/02	REVISION DATE:	03/2008
SUBJECT:	Local Human Rights Committee hearing and review procedures 12 VAC 35-115-180				

(step 4 continued)

- At the hearing, the parties and their chosen representatives have the right to present witness and other evidence and the opportunity to be heard.
- Step 5: Within 10 working days after the hearing ends, the LHRC shall give, in writing, its findings of fact and recommendation to the parties and their representatives. Whenever appropriate, the LHRC shall identify information that it believes the Executive Director shall take into account in making decisions concerning discipline or termination of personnel.

- **Step 6:** Within five working days of receiving the LHRC's findings and recommendations, the Executive Director shall give the individual, the individual's chosen representative, the human rights advocate, the governing body, and the LHRC a written action plan he intends to take to respond to the LHRC's findings and recommendations. The plan shall not be implemented for five working days after it is submitted, unless the individual receiving services agrees to its implementation sooner.
- **Step 7:** The individual, his chosen representative, the human rights advocate, or the LHRC may object to the action plan within five working days by stating what the objection is and what the Executive Director can do to resolve this objection.
- If an objection is made, the Executive Director may not implement the action plan, or may implement only that portion of the plan that the individual making the complaint agrees to, until he resolves the objection as requested or appeals to the SHRC for a decision.
- If no one objects to the action plan, the Executive Director shall begin to implement it on the sixth working day after he submitted it.
- **Step 8:** If an objection to the action plan is made and the director does not resolve the objection to the action plan to the individual's satisfaction with two working days following its receipt by the director, the individual may appeal to the SHRC.

VALLEY COMMUNITY SERVICES BOARD HUMAN RIGHT REGULATIONS

POLICY:	Human Rights Regulations 5.4	ORIGINAL DATE:	REVISION DATE:
SUBJECT:	Special procedures for Emergency hearings by the LHRC 12 VAC 35-115-190	06/02	03/2008

Special procedures for emergency hearings by the LHRC

- **Step 1:** If the human rights advocate informs the LHRC of a substantial risk that serious and irreparable harm will result if a complaint is not resolved immediately, the LHRC shall hold and conclude a preliminary hearing within 72 hours of receiving this information.
 - The Executive Director or designee and the human rights advocate shall attend the hearing.
 - The individual and the authorized representative may attend the hearing.
 - The hearing shall be conducted according to the procedures listed above, but it shall be concluded on an expedited basis.
- **Step 2:** At the end of the hearing, the LHRC shall make preliminary findings and, if a violation is found, shall make preliminary recommendations to the Executive Director, the provider, and VCSB Board of Directors.
- **Step 3:** The Executive Director shall formulate and carry out an action plan within 24 hours of receiving the LHRC's preliminary recommendations. A copy of the plan shall be sent to the human rights advocate, the individual, and the VCSB Board of Directors.
- **Step 4:** If the individual or the human rights advocate objects within 24 hours to the LHRC findings or recommendation or to the Executive Director's action plan, the LHRC shall

conduct a full hearing within five working days of the objection. This objection shall be in writing to the LHRC chairperson, with a copy sent to the Executive Director.

- Step 5: Either party may appeal the LHRC's decision to the State Human Rights Committee.

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POLICY:	Human Rights Regulations 5.5 Page 1	ORIGINAL DATE:	REVISION DATE:
SUBJECT:	Special procedures for LHRC reviews involving consent/authorization 12 VAC 35-115-200	06/02	03/2008

Special procedures for LHRC Reviews involving consent and authorization:

- Step 1: The individual, his authorized representative, or anyone acting on the individual's behalf may request in writing that the LHRC review the following situations and issue a decision:
- If an individual, or authorized representative objects at any time to the appointment of a specific person as authorized representative or any decision for which consent or authorization is required and has been given by his authorized representative, other than a legal guardian, he may ask the LHRC to decide whether his capacity was properly evaluated, the authorized representative was properly appointed, or his authorized representative's decision was made on the individual's basic values and any preferences previously expressed by the individual to the extent that they are known, and if unknown or unclear in the individual's best interests.
- If an individual or his family member has obtained an independent evaluation of the individual's capacity to give any informed consent to treatment or participation in human research and the opinion of that evaluator conflicts with the opinion of the provider's evaluator, the LHRC may be requested to decide whether evaluation will control.
 - a. If the LHRC agrees that the individual lacks the capacity to consent to treatment or services or authorize disclosure of information, the director may begin or continue treatment or research or disclose information, but only the appropriate consent or authorization of the authorized representative. The LHRC shall advise the individual of his right to appeal this determination to The SHRC.
 - b. If the LHRC does not agree that the individual lacks the capacity to consent to treatment or services or authorize disclosure of information the director shall not begin any treatment or research, or disclose any information without the individual's consent or authorization , or shall take immediate steps to discontinue any actions begun without the consent or authorization of the individual. The Executive Director may appeal to the SHRC, but not take any further action until the SHRC issues its opinion.

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POLICY:	Human Rights Regulations 5.5 Page 2	ORIGINAL DATE: 06/02	REVISION DATE: 03/2008
SUBJECT:	Special procedures for LHRC reviews involving consent /authorization 12 VAC 35-115-200		

- If an Executive Director makes a decision that affects an individual and the individual believes that the decision requires his personal consent or authorization or that of his authorized representative, he may object and ask the LHRC to decide whether consent or authorization is required.
- Regardless of the individual's capacity to consent to treatment or services or authorize disclosure of information, if the LHRC determines that a decision made by a director requires consent or authorization that was not obtained, the director shall immediately rescind the action unless and until such consent or authorization is obtained.
- Before making such a decision, the LHRC shall review the action proposed by the Executive Director, any determination of lack of capacity, the opinion of the independent evaluator if applicable, and the individual's or his authorized representative's reasons for objecting to that determination. To facilitate its review, the LHRC may ask that a physician or licensed clinical psychologist not employed by the provider evaluate the individual at the provider's expense and give an opinion about his capacity to consent to treatment or authorize information.
- The LHRC shall notify all parties and the human rights advocate of the decision within 10 working days of the initial request.

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POLICY:	Human Rights Regulations 5.6 Page 1	ORIGINAL DATE: 06/02	REVISION DATE: 03/2008
SUBJECT:	State Human Rights Committee Appeals Procedures 12 VAC 35-115-210		

A. Any party may appeal to the SHRC if he is not satisfied with any of the following:

1. An LHRC's final findings of fact and recommendations following a hearing;
2. An Executive Director's final action plan following an LHRC hearing;
3. An LHRC's final decision regarding the capacity of an individual to consent to treatment, services, or research or authorize disclosure of information; or
4. An LHRC's final decision concerning whether consent or authorization is needed for the Executive Director to take a certain action.

The steps for filing an appeal are provided in subsections B through I of this section.

B. Step 1: Appeals shall be filed in writing with the SHRC by a party within 10 working days of receipt of the final action.

1. The appeal shall explain the reasons the final action is not satisfactory.
2. The human rights advocate or any other person may help in filing the appeal. If the individual chooses a person other than the human rights advocate to help him, he and his chosen representative may request the human rights advocate's help in filing the appeal.
3. The party appealing must give a copy of the appeal to the other party, the human rights advocate, and the LHRC.
4. If the director is the party appealing, he shall first request and get written permission to appeal from the commissioner or governing body of the provider, as appropriate. If the director does not get this written permission and note the appeal within 10 working days, his right to appeal is waived.

C. Step 2: If the director is appealing, the individual may file a written statement with the SHRC within five working days after receiving a copy of the appeal. If the individual is appealing, the director shall file a written statement with the SHRC within five working days after receiving a copy of the appeal.

D. Step 3: Within five working days of noting or being notified of an appeal, the director shall forward a complete record of the LHRC hearing to the SHRC. The record shall include , at a minimum:

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POLICY:	Human Rights Regulations 5.6 Page 2	ORIGINAL DATE:	REVISION DATE:
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1. The original petition or information filed with the LHRC and any statement filed by the Executive Director in response;
2. Parts of the individual's services record that the LHRC considered and any other parts of the services record submitted to, but not considered by the LHRC that either party considers relevant;
3. All written documents and materials presented to and considered by the LHRC, including any independent evaluations conducted;
4. A tape or transcript of the LHRC proceedings, if available;
5. The LHRC's findings of fact and recommendations;
6. The director's action plan, if any; and
7. Any written objections to the action plan or its implementation.

E. Step 4: The SHRC shall hear the appeal at its next scheduled meeting after the chairperson receives the appeal.

1. The SHRC shall give the parties at least 10 working days' notice of the appeal hearing.

2. The following rules govern appeal hearings:

a. The SHRC shall not hear any new evidence.

b. The SHRC is bound by the LHRC's findings of fact subject to subdivision 3 of this subsection.

c. The SHRC shall limit its review to whether the facts, as found by the LHRC, establish a violation of these regulations and a determination of whether the LHRC's recommendations or the action plan adequately address the alleged violation.

d. All parties and their representatives shall have the opportunity to appear before the SHRC to present their positions and answer questions the SHRC may have.

e. The SHRC shall notify the inspector general of the appeal.

3. If the SHRC decides that the LHRC's findings of fact are clearly wrong or that the hearing procedures employed by the LHRC were inadequate, the SHRC may:

a. Send the case back to the LHRC for another hearing to be completed within a time period specified by the SHRC; or

b. Conduct its own fact-finding hearing. If the SHRC chooses to conduct its own factfinding hearing, it may appoint a subcommittee of at least three of its members as fact finders. The fact-finding hearing shall be conducted within 30 working days of the SHRC's initial hearing.

In either case, the parties shall have 15 working days' notice of the date of the hearing and the opportunity to be heard and to present witnesses and other evidence.

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F. Step 5: Within 20 working days after the SHRC appeal hearing, the SHRC shall submit a report, its findings of fact, if applicable, and recommendations to the commissioner and to the provider's governing body, with copies to the parties, the LHRC, and the human rights advocate.

G. Step 6: Within 10 working days after receiving the SHRC's report, in the case of appeals involving a state facility, the commissioner shall submit an outline of actions to be taken in response to the SHRS's recommendations. In the case of appeals involving CSBs and private providers, the commissioner and the provider's governing body shall each outline in writing the action or actions they will take in response to the

recommendations of the SHRC. They shall also explain any reasons for not carrying out any of the recommended actions. Copies of their responses shall be forwarded to the SHRC, the LHRC, the director, the human rights advocate, and the individual.

H. Step 7: If the SHRC objects in writing to the commissioner's or VCSB proposed actions or both, their actions shall be postponed. The commissioner or VCSB or both shall meet with the SHRC at its next regularly scheduled meeting to attempt to arrange a mutually agreeable resolution.

I. Step 8: In the case of services provided directly by the department, the commissioner's action plan shall be final and binding on all parties. However, when the SHRC believes the commissioner's action plan is incompatible with the purpose of these regulations, it shall notify the board, the protection and advocacy agency, and the inspector general.

In the case of services delivered by all other providers, the action plan of VCSB shall be reviewed by the commissioner. If the commissioner determines that the provider has failed to develop and carry out an acceptable action plan, the commissioner shall notify the protection and advocacy agency and shall inform the SHRC of the sanctions the department will impose against the provider.

J. Step 9: Upon completion of the process outlined in subsections B through I of this section, the SHRC shall notify the parties and the human rights advocate of the final outcome of the complaint.