



Virginia Department of Behavioral Health
and Developmental Services

Office of Human Rights

Overview of Regulatory Requirements for Restrictions, Behavioral Treatment Plans and Restraints for Professionals who support services that are licensed, funded, or operated by DBHDS

01

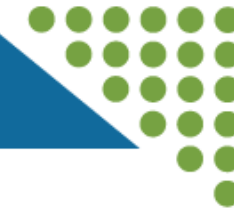
Develop an understanding of the Department of Behavioral Health and Developmental Services - Office of Human Rights: mission, structure, and processes.

02

Identify and distinguish applicable Provider Human Rights Regulations, and how this impacts LBAs (and other professionals') roles and responsibilities

03

Learn how to access the Office of Human Rights for assistances, concerns, or available Provider trainings.



“Road Map”

- **Key Terms**
- **Overview of the Office of Human Rights**
- **Human Rights Processes**
 - Provider Reporting
 - Complaint Resolution
 - Licensure and Compliance Activities
 - Human Rights Committees
- **Procedures for Restraint, Time Out and other Restrictions**
- **Resources** (Training, FAQs, Points of Contact)



- ANE – Abuse, Neglect, and/or Exploitation
- A.I.M – OHR Protocol for responding to high priority reports of abuse/neglect. Literally means: Assess, Investigate, Monitor
- AR – Authorized Representative
- BCBA – Board Certified Behavioral Analyst
- BTP – Behavioral Treatment Plan
- CHRIS – Computerized Human Rights Information System (Office of Human Rights web-based reporting system)
- DBHDS – Department of Behavioral Health and Developmental Services
- HRR – Human Rights Regulations
 - <https://law.lis.virginia.gov/admincodeexpand/title12/agency35/chapter115>
- **Individual** - means a person who is receiving services. This term includes the terms "consumer," "patient," "resident," "recipient," and "client."
- IRC – Independent Review Committee
- LBA – Licensed Behavioral Analyst
- LHRC – Local Human Rights Committee
- OHR – Office of Human Rights
- **Professional** – person providing support services to individuals receiving services from a DBHDS provider
- **Provider** - means any person, entity, or organization offering services that is licensed, funded, or operated by DBHDS
- SCC – Specially Constituted Committee
- SHRC – State Human Rights Committee
- VAC – Virginia Administrative Code

- The Office of Human Rights (OHR) was established in June 1978
- Va. Code §37.2-400 outlines “assured rights” of individuals receiving services
- Human Rights Regulations define the structure for complaint resolution and itemize DBHDS and Provider duties



Virginia Code §37.2-400 outlines "assured rights" of individuals receiving services *in DBHDS-licensed, operated or funded programs, and establishes authority to protect these rights including freedom from abuse/neglect, by monitoring and enforcing provider compliance with the Human Rights Regulations and managing the complaint resolution program.*

What OHR Does	What OHR Does NOT Do
<ul style="list-style-type: none"> • Represent individuals making a complaint • Provide training and regulatory technical assistance to individuals, family members and providers • Receive and review reports of alleged violations to provide technical assistance, make determinations of regulatory compliance, and ensure due process for individuals • Monitor providers ongoing compliance with regulations • Provide oversight, training and technical assistance to Local and State Human Rights Committees • Track and trend data to determine areas for quality improvement initiatives 	<ul style="list-style-type: none"> • Investigate all complaints • Provide emergency care (EMS), safety-net response (APS/CPS) and other legal interventions (Law-Enforcement) • Operate a 24/7 Hotline • Remove individuals from any services setting – even when danger is imminent. • Have HRR oversight of services that are not licensed, funded, or operated by DBHDS

50-Dignity

60-Services

70-Participation
in Decision
Making and
Consent

80-
Confidentiality

90-Access to
and
Amendment of
records

100-Restrictions
on Freedoms of
Everyday Life

105-Behavioral
Treatment Plans

110-Use of
Seclusion,
Restraint or
Time Out

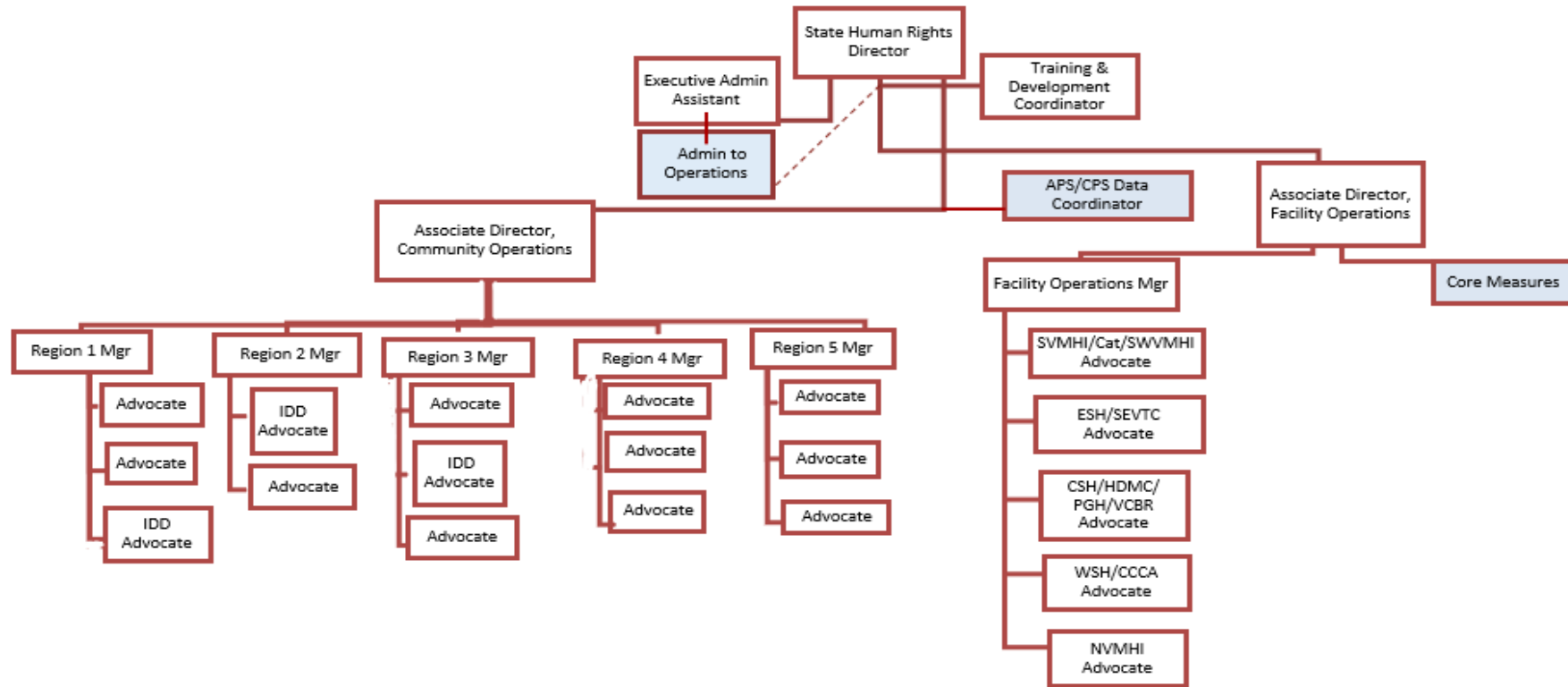
120-Work

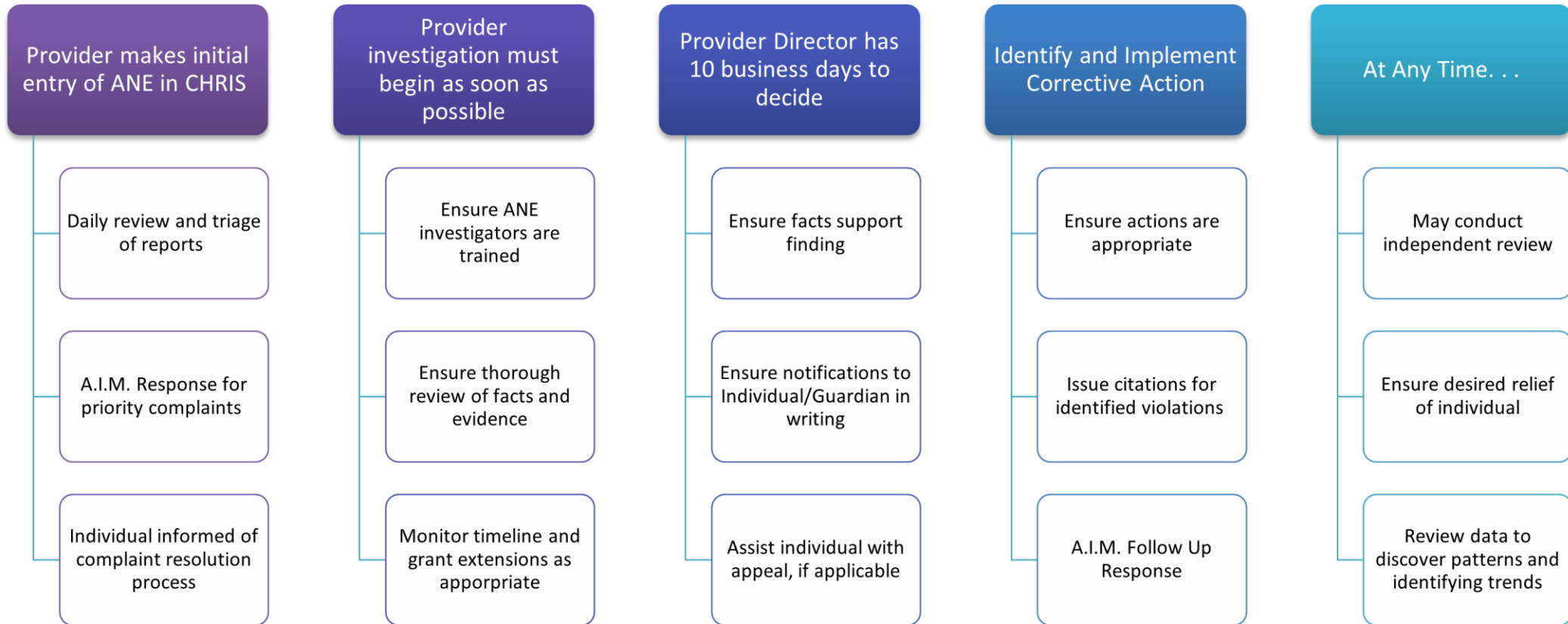
130-Research

145-
Determination of
Capacity and
Authorized Reps

150-Complaint
and Fair Hearing 

The mission of the Office of Human Rights is to promote the basic precepts of human dignity by monitoring provider compliance with the Human Rights Regulations, managing the DBHDS complaint resolution program, and advocating for the rights of individuals in our service delivery systems.







Provider Applicants are required to submit an *attestation* with their application to the Office of Licensing, confirming that they have developed policies and will comply with the Human Rights Regulations (HRR).



Provider Applicants must submit a completed *Compliance Verification Form* and ONLY their policy addressing Complaint Resolution per 12VAC35-115-175 to the OHR, via email to OHRpolicy@dbhds.virginia.gov.



OHR will notify Provider Applicants of the status of compliance within 15 working days of receipt of this information. If approved, they will receive a Compliance Verification Letter and the assigned Advocate will provide training, resources and review remaining human rights policies. If not approved, guidance for compliance will be communicated.

12VAC35-115-260

★ Provider responsibilities ★

12VAC35-115-260 A.12

Comply with requests by the human rights advocate for information, policies, procedures, and written reports regarding compliance

12VAC-115-260 A.6.

Provide the human rights advocate unrestricted access to an individual and his services records to carry out rights protection, complaint resolution, and advocacy on behalf of the individual

12VAC35-115-260 c.5. / A.11.

Investigate and correct conditions or practices interfering with the free exercise of individuals' human rights and make sure that all employees cooperate with the human rights advocate, in carrying out their duties under the regulations

The LHRC ensures rights protections and due process for individuals receiving services:

- Hearings
- Consent
- Human Research
- Restrictions under 12VAC35-115-50 or -100
- BTP involving restraint or timeout (**prior to implementation*)
- Next Friend Appointment

The SHRC oversees implementation of the Human Rights Regulations, including making recommendations to the DBHDS Commissioner and State Board concerning its interpretation and enforcement.

Providers make review requests to the LHRC. All requests must go through the Office of Human Rights

In FY23 LHRCs facilitated 356 "due process" Reviews, including reviews of individualized restrictions and Behavioral Treatment Plans with restraint.

VOLUNTEERS NEEDED

More than half of the 17 LHRCs across the state have vacancies. Without full committees, provider reviews and individual due process cannot occur timely.

If you, individuals/family members served by your organization, or colleagues are interested in serving on an LHRC, please review the Recruitment Information Sheet



Access the LHRC Application directly from our webpage!

Select a Section for More Information
Resources for Individuals
Resources for Licensed Providers
Resources for State Operated Facilities
LHRC & SHRC
Data & Statistics
Contact Information

LHRC | Local Human Rights Committee Information

Functions of the Local Human Rights Committee:

- Review any dignity or freedom restriction on the rights of an individual that lasts longer than seven days or is imposed three or more times in a 30-day period
- Conduct interviews for Next Friends as part of the authorized representative process
- Conduct fact finding hearings and make recommendations for resolution of complaints not resolved at the provider level
- Review behavioral treatment plans that incorporate the use of seclusion, restraint and time out
- Receive, review and act on applications for variances to the human rights regulations
- Focus on providing due process for individuals
- Review and approve provider program rules if requested by the LHRC or Advocate
- Identify violations of applicable rights or regulations during complaint resolution along with any policies, practices or conditions that contributed to those violations

The State Human Rights Committee (SHRC) consists of nine volunteers, who are broadly representative of various professional and consumer groups as well as geographic areas of Virginia. SHRC members are appointed by the State Board. The SHRC acts as an independent body to oversee the implementation of the human rights program. The role of the SHRC is to:

- Receive, coordinate and make recommendations for revisions to regulations
- Review the scope and content of training programs, monitor and evaluate the implementation and enforcement of the regulations
- Hear and render decisions on appeals from complaints heard but not resolved at the LHRC level
- Review and approve requests for variances to the regulations, review and approve LHRC bylaws and appoint LHRC members

Human Rights Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned, as well as advocates who oversee community programs, with regional advocates located throughout the State who oversee the work of the advocates. Their duties include investigating complaints, examining conditions that impact



Title / Description:

Reporting in CHRIS

This training is designed to educate the learner on the human rights complaint process and provider reporting requirements specific to abuse and neglect allegations. The learner will increase their understanding of CHRIS and the Human Rights Regulations regarding human rights complaints and reporting.

Investigating Abuse & Neglect: The Basics

This training is designed as an overview of the regulatory and investigative process, specific to the investigation of abuse and neglect.

Overview of the Human Rights Regulations

This training is designed to provide the learner an in-depth review of the Human Rights Regulations. Providers will increase their understanding of the Office of Human Rights processes and the responsibilities of the provider as mandated by the Human Rights Regulations.

Restrictions, Behavioral Treatment Plans, & Restraints (RBR)

This training is designed to educate the learner on regulatory requirements related to the use of restrictions, behavioral treatment plans, and restraints.

Materials for the training can be located on the [“Resources for Licensed Providers”](#) tab of the OHR webpage and are provide at each training.

- Live web-based training sessions are open to anyone that registers.
- Certificates of completion and CEUs are administered upon request to those that attend the session in full.

"**Provider**" means any person, entity, or organization offering services that is licensed, funded, or operated by DBHDS

"**Individual**" means a person who is receiving services. This term includes the terms "consumer," "patient," "resident," "recipient," and "client."

"**Professional**" – person providing support services to individuals receiving services from a DBHDS provider



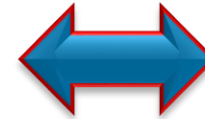
Support services provided by professionals working with individuals and providers (i.e., data collection, Plan development, staff training) must not conflict with the Human Rights Regulations.

Section 50

- Religious practices
- Mail
- Visitation
- Telephone use



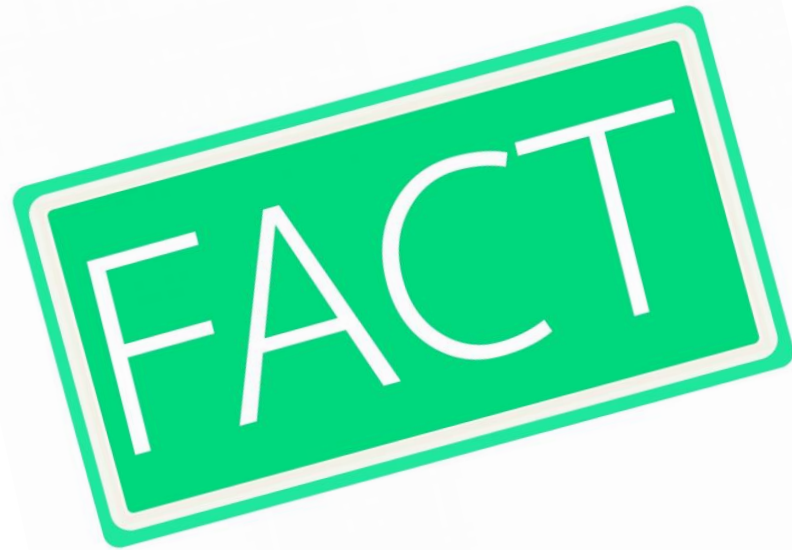
Providers must obtain approval of the LHRC for any restriction imposed under these sections - that last longer than seven (7) days or is imposed three (3) or more times during a 30-day period.



Section 100

- Movement within service setting, its grounds, and the community
- Private communication
- Have and spend personal money
- Keep and use personal items


- ✓ **100(B)(3)** clarifies that a provider may impose a restriction that is “otherwise required by law” without violating these regulations (i.e., probation/parole stipulations)
- ✓ **100(B)(3)(d)** specifies requiring written notice to the individual of the reason for a restriction, criteria for removal, and the right to a fair review. This applies to all restrictions no matter how long they are imposed



- ✓ Restrictions are context-dependent.
- ✓ A restriction for one person, may be support for another.
- ✓ Conversations about restrictions should be person-centered and take place with individuals, AR's, support coordinators, other treatment team members and the advocate.
- ✓ If the LHRC finds that the restriction is not being implemented in accordance with the HRR, the director shall be notified and the LHRC shall provide "recommendations"

Providers may use individualized restrictions such as restraint or time out in a BTP to address challenging behaviors that present an **immediate danger** to the individual or others, but only after a *licensed professional or Licensed Behavior Analyst* has conducted a detailed and systematic assessment of the behavior and the situations in which it occurs.

The purpose of a BTP is to assist an individual to improve participation in normal activities and conditions of everyday living, reduce challenging behaviors, alleviate symptoms of psychopathology, and maintain a safe and orderly environment.

- ✓ BTP (also called a “Functional Plan” or a “Behavioral Support Plan” means any set of documented procedures that are an integral part of the individualized services plan (ISP)
 - ✓ A BTP must be developed on the basis of a systematic data collection, such as a functional assessment
 - ✓ BTP can include non-restrictive procedures and environmental modifications that address targeted behaviors.
- 

BTP's that involve the use of restraint or time-out have additional review requirements (via LHRC, SCC, or IRC)

Any Behavioral Plan that includes restraint or timeout **must** go before an IRC for review of the technical adequacy of the Plan prior to the required LHRC review, and it must continue to be reviewed by the IRC quarterly. See [12VAC35-115-105. Behavioral treatment plans. \(virginia.gov\)](#), specifically -105(C)(3), -105(E) and -105(G).

IRC's are not within the purview of the Office of Human Rights. If the provider has trouble finding an IRC, they can reach out to their assigned Regional Advocate, who can attempt to help them locate an IRC, or give them the information regarding available IRC.

“Restraint” means the use of a mechanical device, medication, physical intervention, or hands-on hold to prevent an individual from moving his body to engage in a behavior that places him or others at **imminent risk**.

Mechanical

use of a mechanical device that cannot be removed by the individual to restrict the freedom of movement or functioning of a limb or a portion of an individual's body

Pharmacological

use of a medication that is administered **involuntarily** for the emergency control of an individual's behavior and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.

Physical

use of a physical intervention or hands-on hold to prevent an individual from moving his body

**Refer to the Provider's Behavioral Intervention protocol/policy/training

...Consider the Purpose...

Behavioral

- ✓ Restraints for “behavioral purposes” means using a physical hold, medication, or a mechanical device to **control behavior or involuntarily restrict freedom of movement** of an individual in an instance when all of the following conditions are met:
 - there is an emergency,
 - nonphysical interventions are not viable, and
 - safety issues require an immediate response.

Medical

- ✓ Restraints for “medical purposes” means using a physical hold, medication, or mechanical device to **limit mobility** of an individual **for medical, diagnostic, or surgical purposes**, such as routine dental care or radiological procedures and related post-procedure care processes, when use of the restraint is not the accepted clinical practice for treating the individual's condition.

Protective


- ✓ Restraints for “protective purposes” means using a mechanical device to compensate for a physical or cognitive deficit when the **individual does not have the option to remove the device**. The device may limit an individual's movement, for example, bed rails or a geri-chair, and prevent possible harm to the individual or it may create a passive barrier, such as a helmet to protect the individual.

Not all restraints require LHRC approval

Only restraints **that are included in a BTP** require IRC (or SCC) and LHRC approval

Not all restraints require a report in CHRIS

Providers should only report improper uses of restraint and restraint resulting in a complaint (i.e. an allegation) of abuse or neglect in CHRIS

Additionally, per **12VAC35-115-230.C.2.**: The director of a service licensed or funded by the department shall submit an annual report of each instance of seclusion or restraint or both by the 15th of January each year, or more frequently if requested by the department. 

“Time Out” means the *involuntary* removal of an individual by a staff person from a source of reinforcement to a **different, open** location for a **specified period of time or until the problem behavior has subsided** to discontinue or reduce the frequency of problematic behavior.



“Seclusion” means the *involuntary* placement of an individual **alone** in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical or verbal means, so that the individual cannot leave.

- **As of 7/17/24: Seclusion may be used only in an emergency and only in facilities operated by the department; residential facilities for children that are licensed under Regulations for Children's Residential Facilities (12VAC35-46); inpatient hospitals; and crisis receiving center or crisis stabilization units that are licensed under Part VIII (12VAC35-105-1830 et seq.) of 12VAC35-105**

****Seclusion may not be utilized in a BTP****



Behavioral Treatment Plan (BTP) with Restraint or Time-Out for LHRC Review

Section 1 – To be completed by the Provider

Individual's Identifier (First and Last initials only): _____ Type here

Provider Name & Contact Information (email or phone): _____ Type here

Date Assessment Completed by Licensed Professional or Licensed Behavioral Analyst: _____ Click here to select date

Name and credentials of person completing assessment: _____ Type here

Date of Behavior Treatment Plan: _____ Click here to select date

Type of Plan: New BTP Quarterly Review Revision

Independent Review Committee Information

Date Reviewed by the Independent Review Committee (IRC): _____ Click here to select date

Evidence of IRC Approval and Recommendations, if applicable, is attached: Yes No

If this is an Intermediate Care Facility, in addition to IRC approval, the Specially Constituted Committee (SCC) approval is attached: Yes No N/A

Informed Consent

Date Substitute Decision Maker Notified: _____ Click here to select date

BTP Review

Less restrictive alternatives were implemented or attempted prior to the development of this plan: Yes No

A professional qualified by expertise, training, education and credentials initiated, developed, carried out, and monitored the BTP: Yes No
 • If yes, provide credential, training and education details of staff involved, to include date: _____

The BTP includes nonrestrictive procedures and environmental modifications that address targeted behaviors: Yes No

The BTP includes restrictions: Yes No

Restraint and/or Time Out Details

Target Behavior	Less Restrictive Alternatives Implemented or Attempted	List ALL Restraint or Time Out Procedures, Including Type and Parameter for Use	Associated Page Number in the BTP

Section 2 – To be completed by the LHRC

LHRC Recommendations and Acknowledgments

Based on the information provided and authority granted to the LHRC by 12VAC35-115-105:

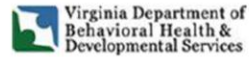
- The LHRC acknowledges that the Behavioral Treatment Plan involving the use of restraint or time out is being implemented in accordance with the Human Rights Regulations and request that the provider return for a quarterly review on Click here to select date.
- The LHRC acknowledges that the Behavioral Treatment Plan is not being implemented in accordance with the Human Rights Regulations and requests that the provider present evidence of compliance at the next scheduled meeting on Click here to select date.

Name of LHRC _____ LHRC Chairperson Signature _____ Date _____

➤ BTP involving restraint or timeout: BTP with Restraint or Time-Out LHRC Review Form.pdf



➤ [Restriction under 12VAC35-115-50 or 12VAC35-115-100: Restrictions to Dignity & Freedoms LHRC Review Form.pdf*](#)



Restrictions to Dignity/Freedoms of Everyday Life for LHRC Review

Section 1 – To be completed by the Provider

Individual Identifier (First and Last Initials only): Type here

Provider Name & Contact Information (email or phone): Type here

Service(s): Type here

Date of Admission: Click here to select date

Date of Discharge (if applicable): Click here to select date

Type of Review: Initial Revised LHRC Requested Review

Restrictions to Dignity – 12VAC35-115-50

Will the restriction last longer than seven days or be imposed three or more times during a 30-day period?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was the Human Rights Advocate notified of the reason for the restriction prior to implementation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Did a licensed professional (refer to section 30 for definition of licensed professional) document in the service record that demonstrable harm will result without the restriction?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the need for the restriction reviewed by the team monthly and documented in the individual's services record?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Restrictions to Freedoms of Everyday Life – 12VAC35-115-100

Will the restriction last longer than seven days or be imposed three or more times during a 30-day period?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Did a qualified professional involved in providing services, in advance, assess the need for the restriction and document all possible alternatives to the restriction?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Did a qualified professional involved in providing services document in the individual's services record the specific reason for the restriction?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Did a qualified professional involved in providing services explain and provide written notice 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? (Please attach the written notice)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does a qualified professional regularly review the restriction and the restriction is discontinued when the individual has met the criteria for removal?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the restriction a result of a court order?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Proposed/Imposed Restrictions			
Purpose of Restriction	Less Restrictive Interventions Attempted	Restriction	Criteria for Removal

Section 2 – To be completed by the LHRC

LHRC Recommendations and Acknowledgments

Based on the information provided and authority granted to the LHRC by 12VAC35-115-50 and 12VAC35-115-100:

- The LHRC acknowledges that the Restriction(s) is being implemented in accordance with the Human Rights Regulations.
- The LHRC acknowledges that the Restriction(s) is not being implemented in accordance with the Human Rights Regulations and requests that the provider present evidence of compliance at the next scheduled meeting on [Click here to select date.](#)

Name of LHRC _____ LHRC Chairperson Signature _____ Date _____

Human Research:

[Human Research Notification LHRC Review Form.pdf](#)

Next Friend Appointment:

[Next Friend LHRC Review Form.pdf](#)

Consent:

[Consent & Authorization LHRC Review Form](#)

Human Research – Notification/Update for LHRC Review

Section 1 – To be completed by the Provider

Provider Name & Contact Information (email or phone): Type here

Does the human research project involve human research as defined under the human rights regulations (12VAC35-115-130)? Yes No
If yes, provider Human Research Protocol/Policy is attached.

Date approved by the Institutional Review Board (IRB) or Research Review Committee (RRC): Click here to select date

Type of LHRC Review: New Periodic Review

Section 2 – To be completed by the LHRC

Does the human research project involve human research as defined under the human rights regulations (12VAC35-115-130)? Yes No

Does the provider Human Research Protocol/Policy require informed consent as defined under the human rights regulations (12VAC35-115-130) to be obtained from the individual(s) or authorized representative(s) prior to participating in the human research project, in accordance with chapter 12VAC35-115-130(B)(1)? Yes No

Does the provider Human Research Protocol/Policy require a copy of the IRB/ RRC approved human research documentation be made available for review by the individual(s) or their authorized representative(s), upon request, in accordance with chapter 12VAC35-115-130(B)(3)? Yes No

Was there approval from an IRB/ RRC obtained, prior to the provider performing or the individual(s) participating in the human research project, in accordance with chapter 12VAC35-115-130(B)(3)? Yes No
 N/A research has not begun

Did the LHRC receive notification and a copy of the IRB/ RRC approval prior to the individual's participation in the human research project, in accordance with chapter 12VAC35-115-130(B)(4)? Yes No

LHRC Recommendations and Acknowledgments

Based on the information provided an authority granted to the LHRC by 12VAC35-115-130:

The LHRC acknowledges that the provider Human Research Protocol/Policy is in compliance with the Human Rights Regulations.

The LHRC acknowledges that the provider Human Research Protocol/Policy is being implemented in accordance with the Human Rights Regulations and requests that the provider return for a periodic update on the status of individual(s) participation on: Click here to select date

The LHRC acknowledges that the provider human research protocol is not in compliance with the Human Rights Regulations and requests that the provider present evidence of compliance at the next scheduled meeting on: Click here to select date

Name of LHRC _____ LHRC Chairperson Signature _____ Date _____

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Next Friend for LHRC Review

Section 1 – To be completed by the Provider

Individual's Identifier (First & Last initials only): Type here

Provider Name & Contact Information (email or phone): Type here

Name of Proposed Next Friend: Type here

Date of Request: Click here to select date

In accordance with chapter 12VAC35-115-146, has the proposed next friend, for a period of six months within the last two years either:

Shared a residence with the individual [12VAC35-115-146 (B)(2)(a)]?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Had regular contact or communication with the individual and provided significant emotional, personal, financial, spiritual, psychological or other support and assistance to the individual [12VAC35-115-146 (B)(2)(b)]?	<input type="checkbox"/> Yes <input type="checkbox"/> No

In accordance with chapter 12VAC35-115-146:

The individual agrees to the proposed next friend being designated as the authorized representative [12VAC35-115-146 (B)(3)]: Yes No

The proposed next friend will personally appear before the LHRC [12VAC35-115-146 (B)(4)(a)]: Yes No

The proposed next friend agrees to accept these responsibilities and act in the individual's best interest and in accordance with the individual's preferences [12VAC35-115-146 (B)(4)(b)]: Yes No

The provider has evidence to support the individual's lack of capacity [12VAC35-115-146 (A)]: Yes No

Section 2 – To be completed by the LHRC

LHRC Recommendations and Acknowledgments

Based on the information provided and authority granted to the LHRC by 12VAC35-115-146:

The LHRC allowed the proposed next friend to attend via telephone, video, or other electronic means.

The LHRC recommends the designation of the next friend.

The LHRC does not recommend the designation of the next friend.

Name of LHRC _____ LHRC Chairperson Signature _____ Date _____

Consent and Authorization for LHRC Review

Section 1 – To be completed by the Provider

Individual's Identifier (First and Last initials only): Type here

Provider Name & Contact Information (email or phone): Type here

Date of Request: Click here to select date

Reason for LHRC Review

Please review the section below and select the appropriate option(s) for LHRC review. Indicate that all required supporting documents have been attached by checking the applicable boxes.

A. An individual has an objection regarding the appointment of a specific person as an Authorized Representative (AR), other than a legal guardian, 12VAC35-115-200(A)(1)
If this box is checked, the LHRC will complete Section 2(A) – Objection of AR Appointment.

- Provider should attach the following documents:
 - Evidence of AR Appointment
 - Evidence that individual's preference was obtained and considered
 - Written statement from individual about the reason(s) for the objection

B. An individual has an objection regarding any decision for which consent or authorization is required and has been given by the AR, other than a legal guardian, 12VAC35-115-200(A)(2)
If this box is checked, the LHRC will complete Section 2(B) – Objection of AR Decision.

- Provider should attach the following documents (if applicable):
 - Copy of Provider's Capacity Evaluation
 - Evidence of AR Appointment
 - Written statement from individual about the reason(s) for the objection

OR

An individual believes that a decision made by the AR, other than a legal guardian, was not made based on the individual's basic values and any preferences previously expressed by the individual, 12VAC35-115-200(A)(3)
If this box is checked, the LHRC will complete Section 2(B) – Objection of AR Decision

- Provider should attach the following documents:
 - Written summary from Provider of the proposed treatment consented to by the AR.
 - Written statement from individual about the reason(s) for the objection
 - Provider documentation specific to how the AR took the individual's basic values and preferences into account when making the decision, or that the decision was made in the individual's best interest if their preferences or basic values are unknown

Name of LHRC _____ LHRC Chairperson Signature _____ Date _____

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- ❖ Can licensed eligible clinician assess and determine the need for a restriction under Dignity (12VAC35-115-50)

Yes - If the licensed-eligible clinician is registered with their respective Board, has a valid and enforceable supervisory contract with a licensed professional (see 12VAC35-115-35) which includes having their work reviewed and signed off on by the licensed professional, the licensed-eligible clinician may assess and determine the need for a restriction under Dignity.

- ❖ Is a Licensed Behavior Analyst (LBA) considered a "licensed professional" according to the HRR?

No. Per 12VAC35-115-30 "Licensed professional" means a licensed physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed or certified substance abuse treatment practitioner, or licensed psychiatric nurse practitioner

LBA's are authorized to write, revise and oversee restrictive and nonrestrictive behavior plans per specific authority given to them in 12VAC35-115-105(B).

Because LBA's are not identified in the defined list as a "licensed professional", LBA's are not permitted to perform capacity evaluations under 12VAC35-115-145


- ❖ The provider I work with is presenting a BTP to the LHRC. How do I know the outcome of the review/meeting?

Providers receive a signed copy of the LHRC Review Form from the assigned Advocate at the conclusion of the LHRC meeting. Professionals should review the document with the provider.

Draft minutes from every LHRC meeting are posted to the OHR webpage within 3 business days after the meeting occurred. [LHRC & SHRC - \(virginia.gov\)](https://www.virginia.gov)

- ❖ If I observe or am informed about a potential human rights violation, what should I do?

Contact the OHR Regional Manager for the area where the DBHDS provider (who is involved in the alleged violation occurred) is located. You do not need to know all the details, but it is helpful to be able to relay the name of the individual(s) involved, any involved staff names or titles, and the date(s) of the alleged rights violation.

- ❖ **Prior to taking something to LHRC it must be reviewed by an Independent Review Committee (IRC). I work for a small company or independently. How do I access an IRC? Can I create an IRC?**
 - Per [12VAC35-115-30. Definitions](#), "Independent review committee" means a committee appointed or accessed by a provider to review and approve the clinical efficacy of the provider's behavioral treatment plans and associated data collection procedures.
 - An independent review committee shall be composed of professionals with training and experience in behavior analysis and interventions who are not involved in the development of the plan or directly providing services to the individual.
 - It is fine to develop an IRC – but not be part of the review of a plan that you are involved with. *Any restrictive Behavioral Plan must go before an IRC for review of the technical adequacy of the Plan prior to the required LHRC review, and it must continue to be reviewed by the IRC quarterly. See [12VAC35-115-105 Behavioral Treatment Plans](#), specifically -105(C)(3), -105(E) and -105(G).
 - Accessing a local Community Services Board or other private providers that are potentially open to reviewing outside plans is additionally acceptable, upon confidentiality procedures being established.
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- ❖ **Currently, most BTP's in Therapeutic Consultation have something along the lines of "use program's crisis management strategies" when client is in imminent danger to self or others. Along with contacting REACH or 911, etc. Would these instances of restraint have to go to the IRC then LHRC?**
 - No. A provider can and is expected to, utilize crisis management strategies in an emergency, as described in the program's policies and procedures.

- ❖ **To clarify, are you saying that providers can ONLY implement a restraint ONLY after a licensed professional or LBA has conducted a detailed and systematic assessment?**
 - No. Providers can utilize restraint in an emergency consistent with their approved policies. The requirement for ONLY implementing restraint AFTER a licensed professional or LBA has conducted a detailed and systematic assessment is connected to the use of restraint that is written into a Behavioral Treatment Plan.

- *Contact OHR if you have questions about LHRC or other review processes and requirements @ 804-887-7405*
- *The most direct point of contact for the OHR is the Regional Advocate Manager in the area where the DBHDS provider is located*
- *Please don't hesitate to reach out to Office of Human Rights*



Key

1 Alexandria	21 Lynchburg
2 Bristol	22 Manassass
3 Buena Vista	23 Manassass Park
4 Charles City County	24 Martinsville
5 Charlottesville	25 Newport News
6 Chesapeake	26 Norfolk
7 Colonial Heights	27 Norton
8 Covington	28 Petersburg
9 Danville	29 Poquoson
10 Emporia	30 Portsmouth
11 Fairfax City	31 Radford
12 Falls Church	32 Richmond
13 Franklin	33 Roanoke
14 Fredericksburg	34 Salem
15 Galax	35 Staunton
16 Hampton	36 Suffolk
17 Harrisonburg	37 Virginia Beach
18 Hopewell	38 Waynesboro
19 James City County	39 Williamsburg
20 Lexington	40 Winchester

State Facilities:

Brandon Charles | 804.486.0085
brandon.charles@dbhds.virginia.gov

*Central State Hospital/Western State Hospital/Eastern State Hospital/Catawba Hospital/Piedmont Geriatric Hospital
 Southern VA Mental Health Institute/Northern VA Mental Health Institute/Southwest VA Mental Health Institute
 Hiram Davis Medical Center/Commonwealth Center for Children & Adolescents/VA Center for Behavioral Rehabilitation
 Southeastern Virginia Training Center*

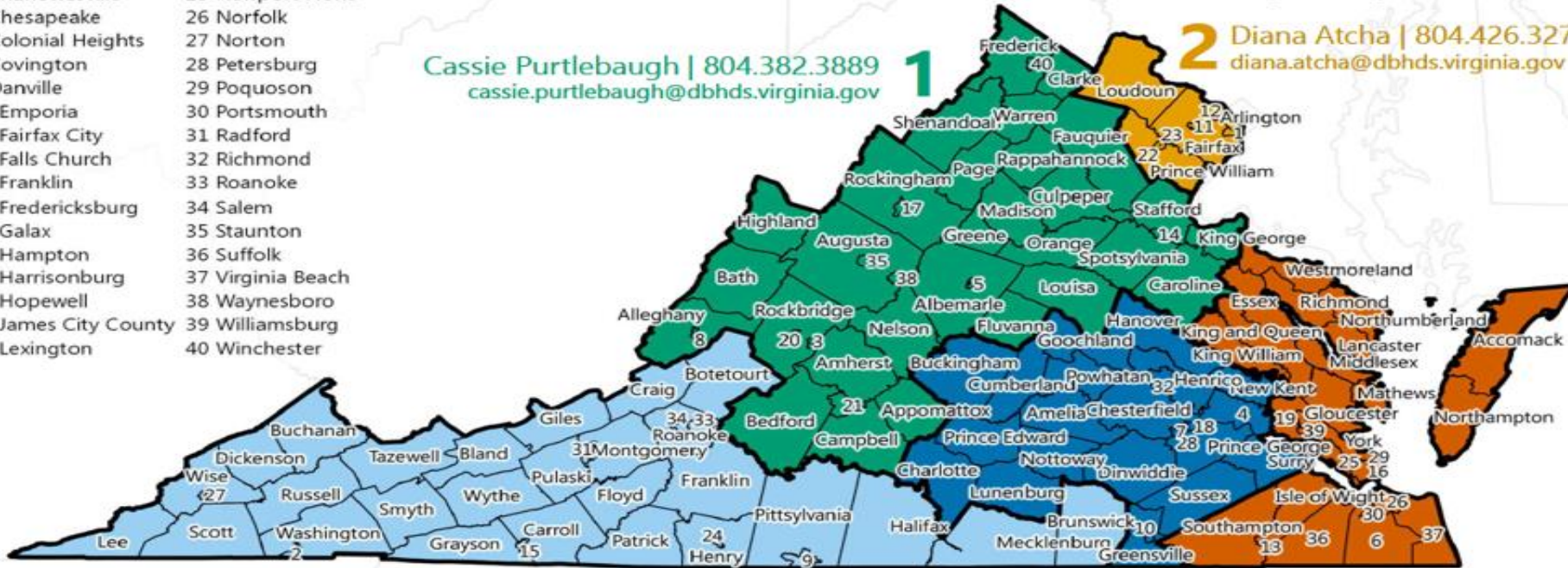
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5 Latoya Wilborne | 757.508.2523
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[OHR Web Page](#)

- Resources for
 - Individuals
 - Licensed Providers
 - State-Operated Facilities
- Memos, Correspondence & Training
- Data & Statistics
- OHR Contact information

[Human Rights Regulations](#)

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Behavioral Services

Home » Developmental Services » Behavioral Services

This page provides information on topics related to the delivery of behavioral services through the Developmental Disability waivers in the Commonwealth of Virginia. Information on how to locate a provider for this service, along with professional resources and training videos that behaviorists may find useful in their own practice are also offered. Additionally, content and resources related to quality reviews of behavioral programming is provided.



Therapeutic behavioral consultation

Locating providers for therapeutic behavioral consultation

Quality reviews in therapeutic behavioral consultation

Professional Resources for Behaviorists

ABA Snippets

Training Videos

DBHDS Behavioral Services

<https://dbhds.virginia.gov/developmental-services/behavioral-services/>