



COMMONWEALTH of VIRGINIA

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COMMISSIONER

DEPARTMENT OF
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Office of Human Rights

To: DBHDS Facility Directors

From: Taneika Goldman, State Human Rights Director

Re: Clarification and Guidance for Investigating Restraint with Injury

Date: April 1, 2022

This memorandum is to provide clarification and guidance for investigating injuries received by individuals during restraint episodes in DBHDS operated facilities. The Office of Human Rights recognizes that defaulting to the definition of serious injury in the Human Rights Regulations when stating providers will investigate *restraint episodes with injury* may leave DBHDS operated facilities in a unique position; given the number of licensed physicians on staff who may respond to various levels of injury as best practice.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician. [12VAC35-115-30]

Therefore, criteria have been identified for when restraint episodes with injury must, in addition to being reported in the Incident Tracker and PAIRS, be investigated for abuse or neglect, also known as a DI 201 Investigation. It is worth noting that the Director may also choose to investigate even if this criteria is not met.

Restraint episodes that involve an allegation or suspicion of abuse or neglect must be entered into CHRIS within 24 hours of the date of discovery in accordance with the Human Rights regulations 12VAC35-115-230 Provider Reporting Requirements. Entries should be made using the CHRIS allegation category "Seclusion/Restraint" and one of the subcategories "Excessive use of force in implementing" or "Not in compliance with standards." These cases must be investigated in full accordance with DI 201 and the Human Rights Regulations. Restraint episodes with injury requiring entry into CHRIS and a DI 201 Investigation should meet at least one of the following criteria:

- The injury has a DI 401 outcome severity level of 03, 04 or 05.
- An individual, or chosen representative, files an allegation (regardless of the severity).

- The Director or Human Rights Advocate determines an investigation is needed to answer questions of potential excessive force or improper procedures.

Facilities should follow their own policy and procedures related to internal processing of all injuries as well as completing any other reporting and investigating requirements. The Office of Human Rights understands facility internal processes may need to be adjusted to align with the information in this memorandum; therefore, a compliance date of April 15, 2022 has been set.

Please contact Taneika Goldman, State Human Rights Director, or Mary Clair O'Hara, Human Rights Associate Director for Facility Operations, if you have questions about this memorandum.

Cc: Angela Harvell, Deputy Commissioner for Facility Services
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