



COMMONWEALTH of VIRGINIA

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MEMORANDUM

To: Members, Local Human Rights Committees
From: Deborah Lochart, Director Office of Human Rights
Date: January 19, 2017
Re: New Human Rights Regulations-LHRC changes

As you are aware, the revised Human Rights Regulations are scheduled to become effective February 9, 2017. Over the last few months, the Office of Human Rights has begun to streamline the LHRC system to align with these changes to the regulations. In the upcoming weeks, assigned advocates will be working with each LHRC to provide information and training on this restructuring and to answer any questions that you might have.

LHRCs will see significant changes to their composition, duties, and responsibilities. The purpose of the revisions was to improve the ability of the Office of Human Rights to perform its mandated responsibilities and to maximize resources in a manner that promotes the vision of recovery, self-determination, empowerment, and community integration for individuals receiving services. The intent was not to lessen or minimize the importance of the LHRCs, which remain a vital part of the human rights system, but to make a stronger system of protections for all by reallocating the way certain duties are distributed.

First and most importantly, LHRCs will provide due process for any individual served by a provider under the LHRC's jurisdiction. Current regulations do not allow for an individual to appeal the ultimate finding in a provider's abuse/neglect investigation, although certain aspects may be appealed and concurrent human rights complaints may be brought. The new regulations consolidate the complaint processes in one section and clarify that ANY decision as a result of a complaint may be appealed. Due to this change, LHRCs will see an increase in hearings in both the community and facilities. LHRCs will also continue to receive and act on any requests for variances to the human rights regulations and "Next Friend" appointments. Revised section 12 VAC 35-115-270(A) lists the duties of LHRCs.

There will no longer be a requirement for providers to support LHRCs. Some providers met this obligation by paying "affiliation fees" to a designated provider to support their committee. It is the decision of those affiliating providers and not the LHRC to determine how any remaining funds should be handled.

Summary of changes in the new regulations impacting the LHRC:

- Removed LHRC review of provider policies, with certain limited exceptions (*See*, 12 VAC 35-115-50(C)(7)(c)(1); -50(C)(8)(c)(1); and -100(B)(7)(e)).
- Removed requirement of provider reports of abuse and neglect and human rights complaints to the LHRC
- Removed providers' duty to provide clerical support to LHRCs
- Removed providers' required attendance at meetings. Providers will no longer be required to attend LHRC meetings unless there is a due process issue before the committee for an individual served by that provider.
- Required that providers must ensure appointment of a designated liaison to, and appropriate staff participation with, the LHRC as requested.
- Removed provider affiliation with LHRCs. Providers will no longer affiliate with a local committee; rather, providers will access the committee in their geographic area if there is an issue for LHRC review.
- Increased the Department's responsibility for the overall functioning of the human rights system by requiring it to support LHRCs with resources, training, and consultation.
- Added a provision that providers shall obtain approval of the LHRC of any restriction imposed on an individual's rights pursuant to 12 VAC 35-115-50 or 12 VAC 35-115-100 that lasts longer than seven days or is imposed three or more times during a 30-day time period.

Thank you for the time and effort put forth in protecting the rights of the individuals we serve. I am excited at the opportunity to continue our work together as we move forward toward system change!