



COMMONWEALTH of VIRGINIA

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COMMISSIONER

DEPARTMENT OF
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May 15, 2024

V. Colleen Miller, Executive Director
Disability Law Center of Virginia
1512 Willow Lawn Drive, Suite 100
Richmond, VA 23230

Dear Ms. Miller:

Thank you for giving us the opportunity to respond to dLCV's report entitled, **2023 Survey on the Human Rights Process at DBHDS Licensed and Operated Providers**. We appreciate the recognition of the work our Office of Human Rights (OHR) team to advocate for the rights of individuals in our service delivery system.

The report notes general concerns about the current DBHDS Human Rights system and individuals' knowledge about the Human Rights Complaint and Appeals Process. The report also highlighted several key conclusions:

- Knowledge of the Human Rights System is not trickling down to individuals receiving services.
- Better information at the provider level would help individuals with their understanding of the Rights, their [Human Rights] Advocate and the Complaint Process.
- OHR staff must be fully accessible to the individuals it is charged to protect.
- Expansion of the OHR is critical for ensuring all individuals are receiving information and assistance consistent with their rights.
- More education leads to more accountability.

It is important to note that DBHDS has taken proactive steps to ensure individuals know their rights, to address provider education and compliance under the Human Rights Regulations and to ensure individuals have access to a Human Rights Advocate and the DBHDS Complaint Process:

1. DBHDS agrees that individuals must have access to a Human Rights Advocate: In late 2020, the OHR underwent a mission critical restructuring to establish the Facility Operations and Community Operations teams. This reorganization was intended to address workload issues and broader areas of inconsistency and accessibility across DBHDS provider settings, with an initial focus on our systems most restrictive settings.

OHR reassigned 5 full-time Human Rights Advocates to work exclusively onsite across each of the 12 DBHDS operated facilities to ensure education and advocacy directly to individuals receiving services as well as onsite consultation and technical assistance to DBHDS facility directors, risk managers, investigators, patient relations, and other facility staff.

2. DBHDS agrees that more education leads to more accountability: As noted in the 2022 SHRC Annual Report, OHR remains committed to providing system-wide training opportunities for providers to promote literacy regarding individuals' assured rights and corresponding provider duties. OHR provides a series of live web-based training experiences with companion resource materials available on the OHR webpage to include training slide decks, audio/video recordings, and FAQs. During FY23, Human Rights Advocates and Managers provided over 58 distinct consultations and targeted technical assistance and training sessions attended by 452 provider staff. Additionally, the OHR Training and Development Coordinator, facilitated 23 statewide training seminars to over 1,970 licensed-provider and facility staff participants and administered over 1,000 CEUs.
3. DBHDS agrees that additional resources within OHR would allow staff to better identify and mitigate unreported human rights violations, as well as expand the overall education efforts of the OHR; providing on-site advocacy to individuals and technical assistance to providers related to the Human Rights system in general and the complaint resolution process more specifically.

We continue to move forward with our innovative and dedicated OHR team to build upon educational materials and resources available for individuals and providers. We anticipate using enhancements to the DBHDS website and partnerships with internal and external stakeholders to increase awareness about what is and what is not a human rights complaint, create greater visibility related to appeal timelines and procedures, establish more accessibility for individuals with lower literacy, limited English language proficiency, cognitive impairments, and limited access to the internet and reduce provider noncompliance due to simple ignorance. Here are a few examples:

- As referenced and noted in the 2022 SHRC Annual Report, the OHR facilitated over 300 onsite provider visits in FY23. During these visits, Human Rights Advocates ensured individuals were safe from imminent harm, that individuals were aware of their rights specific to the complaint process, and that providers had initiated their required investigation and complaint resolution activities. Additionally, while on site Human Rights Advocates also assessed these provider settings for other potential issues of noncompliance including a review of signage to ensure accurate OHR contact information was displayed and accessible to individuals.
- The DBHDS State Human Rights Committee established a "Rights and Resources" subcommittee in November 2023 with a focus on developing and implementing strategies to promote education and awareness of individuals' rights and provider responsibilities relative to those rights. Although the "Rights Poster" is currently available to individuals and providers on the OHR webpage in Arabic, Chinese, Korean, Spanish, and Vietnamese, the subcommittee is concerned that these and other provider

documents intended to inform individuals about the human rights system available to them may have become akin to a “refrigerator magnet”. The subcommittee has set out to find ways to incentivize, support and encourage providers and individuals to modernize and ensure relevance of these materials. The OHR has assigned the OHR Training & Development Coordinator as support for this subcommittee.

- The report cites the current appellate rate at less than 1% of all complaints being appealed through the Local and State Human Rights Committees and details the experiences of 85 individuals and the reasons why they chose not to appeal their complaint(s). At face value, this is disturbing and does emphasize an opportunity to utilize existing quality assurance activities such as the OHR Look-Behind and the SHRC Rights and Resources subcommittee structure to collect additional insight and more directly address the reasons provided about why individuals did not appeal.
- As recommended on page 11 of the report, the OHR has already begun to identify key documents in the complaint resolution process that may be standardized in order to ensure providers include all required and meaningful information. Samples and templates are in the process of being reviewed with individuals and providers for input and will be made available on the OHR webpage.

Thank you for permitting us to review and respond to the report in advance. If you would like to discuss our response in more detail, please contact Taneika Goldman, State Human Rights Director at (804) 371-0064 or Dev Nair, Assistant Commissioner, Division of Provider Management at (804) 335-4193.

Sincerely,



Nelson Smith
Commissioner

c: Dev Nair, Assistant Commissioner
Taneika Goldman, State Human Rights Director