

**DMHMRSAS
Office of Human Rights
Protocols, Procedures and Practices Manual**

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INTRODUCTION

This manual establishes operational protocols, procedures and practices for the DMHMRSAS Office of Human Rights staff.

The Office of Human Rights is an internal advocacy system for the DMHMRSAS but external to programs operated, funded or licensed by DMHMRSAS. The Office of Human Rights, through a system of advocates with state facility and community assignments, provides protection and advocacy services to individuals receiving services from programs operated, funded or licensed by the Department.

MISSION:

The mission of the DMHMRSAS Office of Human Rights is to monitor compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DMHMRSAS Human Rights dispute resolution program.

DUTIES AND RESPONSIBILITIES

State Human Rights Director

The SHRD is charged with the following duties:

- ◆ to oversee the Human Rights program thereby facilitating and monitoring the Department's compliance with the *Human Rights Regulations*;
- ◆ to advise the commissioner, providers, directors, advocates, LHRCs and the SHRC concerning their responsibilities under the *Human Rights Regulations* and applicable laws with reference to the protection of human rights;
- ◆ to assure necessary training for advocates and State and Local Human Rights Committee members with regard to their roles and responsibilities and the content of the *Human Rights Regulations*;
- ◆ to assess and monitor the decisions and needs of the Human Rights Committees at both the State and Local levels;
- ◆ to provide the State Human Rights Committee with necessary support so that the Committee effectively fulfills its external oversight role;

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- ◆ to collect and monitor data for patterns, trends and problems related to human rights issues;
- ◆ to provide direction and supervision to the Human Rights program; and
- ◆ to assure provision of an effective complaint review process for individuals receiving service.

Assistant State Human Rights Director

The ASHRD is charged with the following duties:

- ◆ to provide program supervision and direction to Human Rights Advocates;
- ◆ to monitor the advocate's activities for resolution of problems within facilities and community programs;
- ◆ to provide direct supervision to regional staff;
- ◆ to assist the SHRD in formulating and carrying out the goals and objectives of the Office of Human Rights;
- ◆ to work collaboratively with the Office of Licensing to monitor human rights compliance of facilities and community programs; and
- ◆ to manage the implementation of the information system for the collection of data on the internal human rights system.

Human Rights Advocates

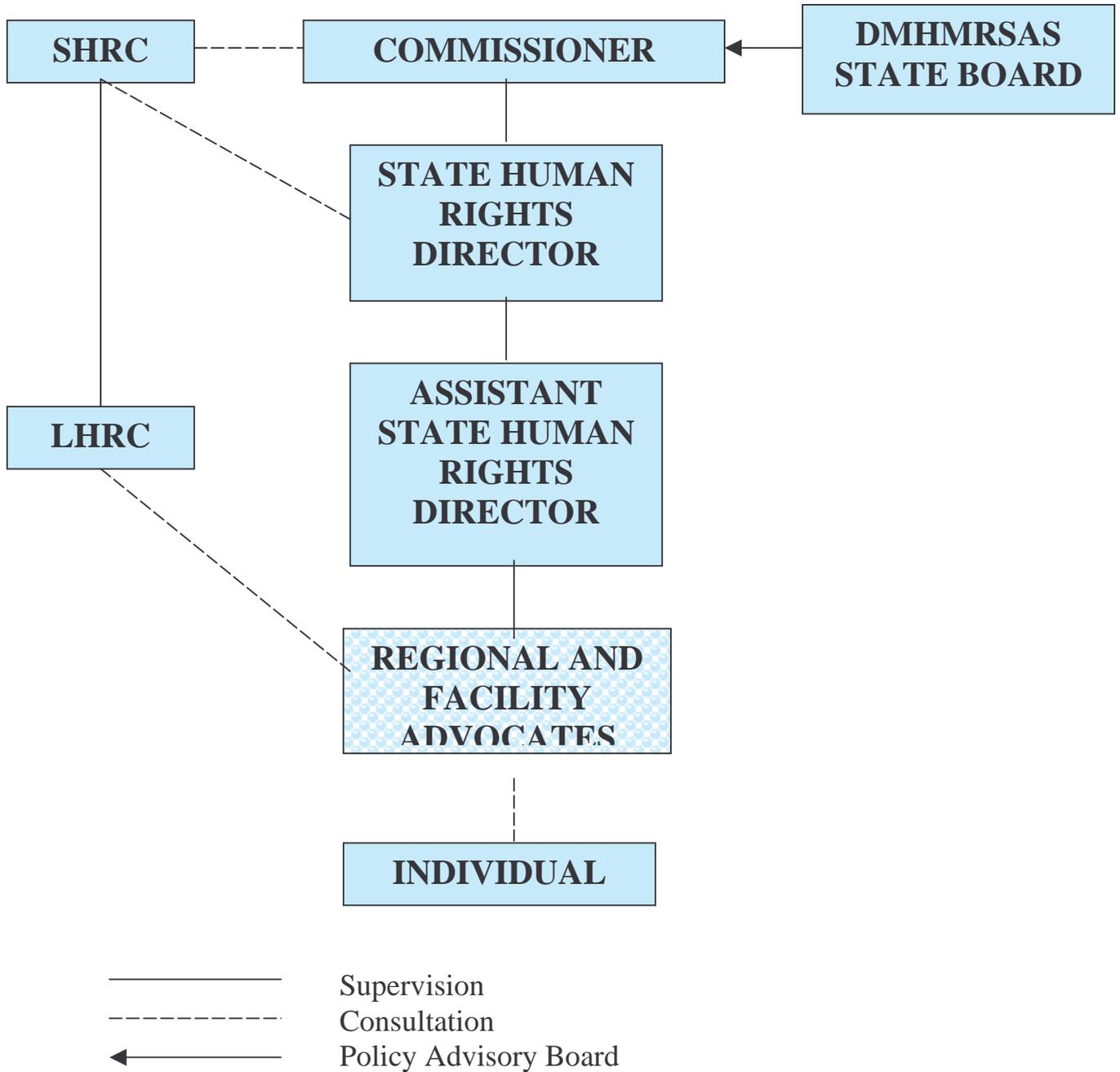
Each advocate is charged with the following duties:

- ◆ to ensure effective representation of individuals receiving services and zealously represent the individual's expressed wishes;
- ◆ to monitor and manage the implementation of an effective rights protections system within the assigned Region / Program, and interpret the Human Rights Regulations;
- ◆ to promote the affirmation of human rights through participation in proactive activities;
- ◆ to identify systemic human rights issues and make recommendations for corrective actions; and

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- ◆ to maintain professional independent judgement in representing the rights of individuals receiving services.

DMHMRSAS HUMAN RIGHTS PROGRAM



Standard 1: Advocates shall zealously represent the expressed wishes of individuals receiving service in accordance with the *Human Rights Regulations*

Examples of implementation:

- ◆ Enforces the affirmation of the individual receiving services right to be protected from abuse and neglect. Abuse/neglect allegations are managed as a first priority.
- ◆ Monitors restrictive interventions and behavioral programming.
- ◆ Conducts investigations of incidents, complaints, circumstances, conditions and practices.
- ◆ Assures communication with individuals receiving services and/or their designated representative throughout the human rights resolution process.
- ◆ Assures timely documentation [CHRIS] of individual receiving services complaints, allegations, and use of the human rights process.

Examples of Evidence of Performance:

- ◆ Documentation of abuse investigations, incidents, complaints, circumstances, conditions and practices.
- ◆ Documentation of review and analysis of reports/data relating to restrictive interventions and behavioral programming.
- ◆ Documentation of follow-up action(s).
- ◆ Evidence of CHRIS documentation.
- ◆ Representation of the individual throughout the human rights process.

Standard 2: Advocates shall manage an effective rights protection system within the assigned Facility/Region/Program, in accordance with the *Human Rights Regulations*.

Examples of Implementation:

- ◆ Monitors compliance of providers with the *Human Rights Regulations*.
- ◆ Conducts site visits to ensure accessibility and visibility of advocates.
- ◆ Ensures that complaints are managed in a timely manner and according to departmental protocol.
- ◆ Monitors the investigation of all allegations of abuse/neglect to ensure individual rights, protections and safety.
- ◆ Works with providers to provide technical assistance, training and consultation to LHRC(s), staff and program consumers.
- ◆ Participates in a non-voting capacity at provider meetings where human rights issues and protection are relevant to the agenda.

Examples of Evidence of Performance:

- ◆ Documentation of compliance reviews.
- ◆ Documentation of the timely progression of complaints through the human rights system.
- ◆ Documentation that the safety and rights of consumers are protected during the investigation of allegations of abuse/neglect.
- ◆ Documentation of site visits.

Standard 3: Advocates shall pro-actively promote the affirmation of human rights.

Examples of Implementation:

- ◆ Reviews provider policies, procedures and practices for adherence to the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*.
- ◆ Reviews provider information and statistics and individual receiving services records for adherence to the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* consumer rights.
- ◆ Establishes a high level of visibility of the human rights program through frequent and regular interaction with individuals receiving service.

Evidence of Performance:

- ◆ Documentation of protocol, procedures and practice reviews and findings.
- ◆ Documentation of information, statistical and record reviews.
- ◆ Documentation of individual contacts.

Standard 4: Advocates shall identify systemic human rights issues and shall take steps to bring about corrective action.

Examples of Implementation:

- ◆ Collects and analyzes data.
- ◆ Identifies and documents issues including recommendations for action.
- ◆ Initiates complaints for resolution through the human rights process.
- ◆ Prepares for Human Rights Committee presentations.

Examples of Evidence of Performance:

- ◆ Documentation in monthly reports.
- ◆ CHRIS documentation.
- ◆ Development of materials pertaining to Human Rights Committee presentation(s).

Standard 5: Advocates shall maintain professional independent judgement in representing the rights of individuals receiving service.

Examples of Implementation:

- ◆ Assesses each situation to determine and clarify the rights issues involved.
- ◆ Consults with the individual receiving services to clearly articulate the individual's requested relief.

Examples of Evidence of Performance:

- ◆ Documentation of complaint/advocacy issues and the specific right involved.
- ◆ Documentation of individual receiving services contacts and requests for resolution/relief.
- ◆ Memoranda or documentation of other communications with programs.

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PROTOCOL NO. 101 - 2000
MONITORING PROCEDURES

Date: November 1, 2000
Revised February 11, 2002

Protocol

The advocate shall monitor the provider's compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* and other applicable regulations, procedures and practices.

The advocate will communicate unresolved deficiencies noted to the director, the SHRD and the LHRC.

Procedure

1. In monitoring the assigned provider's compliance, the advocate is responsible for reviewing the following:
 - ◆ all investigations related to DI 201 [abuse];
 - ◆ resident records for provider protocol and procedural compliance;
 - ◆ incident reports to identify problems and/or trends;
 - ◆ provider buildings or living units to monitor environmental conditions of treatment or residential settings, and assess availability of individuals receiving service and staff for consultation;
 - ◆ utilization of time-out, seclusion, restraint, restrictive programming, psychotropic medications and other possible restrictive measures;
 - ◆ notification of authorized representative designations and the use of substitute consent;
 - ◆ consent procedures to assess protocol compliance and quality of documentation;
 - ◆ protocol and process regarding the service of legal papers on clients;
 - ◆ implementation of provider policies, procedures, practices and their impact on the individual;
 - ◆ the provider's rights notification process, remedies for violations and for compliance with regulations; and
 - ◆ provision of an effective and expeditious complaint review process.

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2. Rights violations or the potential for rights violations must be brought to the attention of the provider administration and handled as a human rights complaint.
3. The advocate shall document monitoring activities in required reports to the assigned supervisor.

Effective: February 11, 2002

Margaret S. Walsh, State Human Rights Director

Date

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PROTOCOL NO. 102 - 2000
MANAGEMENT OF HUMAN RIGHTS COMPLAINTS

Date: November 1, 2000
Revised: February 11, 2002

Protocol

All complaints concerning alleged non-compliance with or violations of human rights regulations shall be managed in accordance with established procedures. Complaints include verbal or written allegations of rights violations or non-compliance as well as those situations in which the advocate proactively intervenes to avoid a violation of a individual's rights.

The DMHMRSAS human rights advocate is responsible for management of each complaint throughout the DMHMRSAS human rights process regardless of the individual's choice for representation.

The DMHMRSAS human rights advocate is responsible for initiating a complaint(s) on behalf of an individual when a violation, potential violation, or human rights issue is apparent and the individual or his representative has not initiated a complaint.

The DMHMRSAS advocate will take action to assure resolution of all complaints in a timely manner and at the lowest level possible. Timely refers to all time frames established by regulation, this manual, or reasonable progression of a complaint through the human rights process.

Procedure

- ◆ The DMHMRSAS advocate will inform the individual and/or his representative of the right to pursue his complaint(s) through the DMHMRSAS human rights process. The individual's consent or concurrence is not required for the advocate to initiate a complaint. The individual or his representative may choose to remain anonymous.
- ◆ The DMHMRSAS advocate will make an initial determination of whether or not serious and irreparable harm to the individual will result if the complaint is not resolved immediately. If it is determined that serious harm may be possible, the advocate shall inform the director and attempt to expedite a resolution of the complaint. If the complaint is not quickly resolved at the level of the director, or

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safeguards put in place for the safety of the individual(s), the advocate shall work with the LHRC to expedite a review of the complaint.

- ◆ The DMHMRSAS advocate shall assist the individual by acting as his representative in the DMHMRSAS process unless the individual selects other representation.
- ◆ The DMHMRSAS advocate shall monitor and assist in moving the complaint through the DMHMRSAS human rights process in a timely fashion.
- ◆ The DMHMRSAS advocate shall meet with the individual and/or his representative at each stage of the process to provide information on decisions reached and any recommendations made. If the individual or his representative is not available for a meeting, the advocate should make every effort to convey information via telephone or mail. The role of the DMHMRSAS advocate is to provide and clarify information not to justify or advocate for a particular point of view.
- ◆ When a DMHMRSAS advocate is serving as representative for a individual or providing technical assistance to a individual and his chosen representative at an LHRC appeal, the advocate shall ensure that another DMHMRSAS advocate is present to provide technical assistance to the LHRC.
- ◆ All complaints/allegations/ issues shall be entered into CHRIS within three working days of receipt/discovery;
- ◆ All documents related to the complaint/allegation/issue shall be maintained in a secure file.

Effective: February 11 , 2002

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 102 - 2000
MANAGEMENT OF HUMAN RIGHTS COMPLAINTS**

Date: November 1, 2000
Revised: February 11, 2002

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**PROTOCOL NO. 103 - 2000
STAFF ORIENTATION PROGRAM**

Date: November 1, 2000
Revised: February 11, 2002

Protocol

Supervisors are responsible for arranging for each new advocate to be oriented in the areas listed below within a three-month period from the date of assignment. The supervisor may request the assistance of other advocates to serve as mentors for the orientation and training of the new advocate in some areas.

Procedure

The following orientation and training format is recommended, however may be reorganized to accommodate scheduling and individual needs. The material may be reorganized, however there must be documentation that the staff person has received all materials, and opportunities for learning as outlined below.

Week 1:

The supervisor will ensure that the new advocate is immediately provided copies of:

- ◆ position description;
- ◆ performance expectations;
- ◆ organizational charts – DMHMRSAS, OHR , facility;
- ◆ Mental Health, Mental Retardation and Substance Abuse Laws of VA Annotated (Current edition)
- ◆ Rules & Regulations;
- ◆ Office of Human Rights Protocol, Procedures & Practices Manual;
- ◆ LHRC Training and Resource Manual;
- ◆ CHRIS Manuals;
- ◆ Office of Human Rights Directory;
- ◆ DMHMRSAS Procedures For Continuity of Care Between CSB and State Psychiatric Facilities
- ◆ Statutes, Attorney General advisory interpretations, files and reports.

The supervisor will ensure that the new advocate who is assigned to provide advocacy services in a state facility is provided an opportunity for

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a general orientation to the facility where he/she will be located to include but is not limited to:

- ◆ Introductions to key staff
- ◆ Tour of facility grounds and buildings
- ◆ Procedures for admission;
- ◆ Specific functions of each program including length of stay for each unit;
- ◆ Specific behavioral techniques employed by each unit;
- ◆ Ratio and accessibility of physicians to individuals;
- ◆ Procedures for documenting the utilization of seclusion/restraint;
- ◆ Procedures and protocols for individual records;
- ◆ Committees, meetings, and reviews which may involve rights issues;
- ◆ Unit procedures and chain of command; and
- ◆ Specific individual issues which involve human rights.

Week 2:

This week should be devoted to becoming familiar with the environment of the assigned facility or region.

- ◆ Spend at least one-half day on a individual unit or at a community program;
- ◆ Become familiar with the concept of ward rules/point & level systems/token economies;
- ◆ Conduct chart/medical record reviews for compliance with policies, consents, etc.;
- ◆ Visit at least one unit/program daily; attend a treatment team meeting, ward meeting, staffing, etc.; and,
- ◆ Review complaint procedures and documentation.

Week 3:

- ◆ The new advocate will be assigned to shadow an advocate (mentor) at a comparable facility/region for a minimum of one week.
- ◆ The new regional advocate will initiate visits with the Executive Directors, Program Directors and Programs within the assigned region.

Week 4:

The supervisor or mentor will review the following with the new advocate:

- ◆ Departmental Instruction 201 and Investigations Manual;

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- ◆ Advocate's role in abuse investigations;
- ◆ Procedures for Continuity of Care between Community Services Board and State Psychiatric Facilities (Revised Client Services Management Guidelines);
- ◆ Community Liaison programs;
- ◆ Making staff / individual contacts & handling complaints under supervision; and
- ◆ Office of Human Rights reporting procedures and CHRIS data entry.

Week 5:

- ◆ The advocate shall engage in the following for a part of each day at the facility/program:
 - ◇ Meeting program staff and individuals;
 - ◇ Reviewing program policies;
 - ◇ Reviewing guidelines for restrictive programs
 - ◇ Observing unit / ward activities;
 - ◇ Handling complaints; and
 - ◇ Handling requests for information;
- ◆ Reviewing the advocate's role in judicial proceedings [commitment hearings]
- ◆ Meet/consult with supervisor and mentor.

Week 6:

The advocate shall establish a schedule of activities such as:

- ◆ Scheduling interviews with individuals;
- ◆ Handling complaints (including through the LHRC/SHRC process);
- ◆ Attending relevant meetings;
- ◆ Continuing familiarization with policies and procedures;
- ◆ Training for staff and LHRC; and,
- ◆ Meeting with supervisor as needed.

During the first six weeks of employment in the position, the supervisor and employee shall:

- ◆ Establish specific topics for additional training;
- ◆ Prioritize the topics; and,
- ◆ Establish time frames for meeting those identified needs within the six-month probationary period.

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The supervisor prior to the conclusion of the probationary period shall make a determination of the advocate's level of skill and abilities.

Skills/Abilities

The following skills and abilities are required of an advocate:

- ◆ Hearing presentation LHRC/SHRC to include how to prepare/write a petition to LHRC/SHRC—demonstrating knowledge and understanding;
- ◆ Investigation procedures—demonstrating knowledge and understanding;
 - ◇ Interviewing / assessment of credibility of witnesses;
 - ◇ Gathering facts;
 - ◇ Report writing;
 - ◇ The need to write a report; and,
 - ◇ Report format.
- ◆ CHRIS [or other computerized system] and necessary reports—demonstrating knowledge and utilization;
- ◆ Conflict resolution—demonstrating knowledge and skill;
- ◆ Code of Virginia—demonstrating knowledge and utilization of:
 - ◇ What's there?
 - ◇ How to cite;
 - ◇ When to cite/use;
 - ◇ How to get updates.
- ◆ MH/MR/SAS Pharmacology—demonstrating general knowledge of—What's basic:
 - ◇ Treatment;
 - ◇ Programs / principles;
 - ◇ State of the art.
- ◆ Systems
 - ◇ DMHMRSAS—demonstrating knowledge and understanding of:
 - Who's who?
 - How does the system operate?
 - ◇ Relationships—demonstrating an understanding of who you can call and for what reason?
 - DSS
 - DRVD

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- Police
- Courts

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PROTOCOL NO. 104 - 2000
STAFF DEVELOPMENT

Date: November 1, 2000
Revised: February 11, 2002

Protocol

The Office of Human Rights recognizes the need for continuing staff development and for individual professional growth and development. The Office of Human Rights is committed to ensuring each advocate is provided with fundamental/basic training and to the extent possible providing opportunities for individual professional growth.

Procedure

The supervisor and the advocate share the responsibility for developing a plan for meeting requirements for training. The plan will include:

- ◆ Completion of mandated fundamental/basic training;
- ◆ Identification and prioritization for training/education [workshops, courses, seminars, etc.] to enhance professional growth and skill development;
- ◆ Maintenance of accurate documentation of the plan to include:
 - ◇ Dates of completion of training
 - ◇ Periodic review of the plan to assure progress toward goals;
- ◆ The plan will be:
 - ◇ updated annually as part of the performance evaluation process
 - ◇ documentation of the plan and progress shall be maintained by both the supervisor and the advocate.

Fundamental/ Basic

Within the first year of employment and subsequently, evidence of completion of / competence in the following fundamental/basic training is required:

Required Training / Update	Frequency
MANDT	Every 2 years
CPR	Annual
Infection Control	Annual
Fire & Safety	Annual

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Advocates will comply with annual mandatory training requirements or demonstrations of competency as required by the provider where their office is located.

Recommended Training

The following training is suggested for all advocates on at least a one time basis:

- ◆ Behavioral Treatment Planning—basics of behavior modification & learning theory as applied in individual treatment plans, point and level systems, token economies, etc.
- ◆ What constitutes “good” treatment—concepts of treatment for:
 - ◇ Admissions units
 - ◇ Continued care
 - ◇ Psychosocial programming
 - ◇ Geriatrics
 - ◇ Children & adolescents
 - ◇ Substance abuse services
 - ◇ Mental retardation
 - ◇ Forensics
 - ◇ Commitments
- ◆ Office Procedures & Management
- ◆ Supervisory Training [for all supervisors]
- ◆ Institute of Law Psychiatry & Public Policy Training
 - ◇ Consent
 - ◇ Civil commitment
 - ◇ Confidentiality
 - ◇ Substance abuse records
- ◆ Computer software training [intermediate skill level proficiency]: Word processing and data base/spread sheet

OHR Delivery of Training

The following training schedule for all advocates will be accomplished at Quarterly Advocates Meetings:

Recommended Training	Frequency
Legislative Updates	Annually
Psychopharmacology Updates	Annually
Advocacy Issues	Annually
Technical Advisor to the LHRC-roles & focus	Every 2 years

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Investigative Techniques—Skills Sharpening	Every 2 years
Mediation	Every 3 years
Counseling	Every 3 years
Conflict Resolution—Skills Sharpening	Every 3 years

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**PROTOCOL NO. 105
SENSITIVE ISSUES**

Date: November 1, 2000

Revised: February 11, 2002

Replaces: Protocol 5 October 1990

Protocol

The SHRD, ASHRD and Regional Advocate shall be notified immediately of issues, which may be sensitive in nature.

Procedure

1. The SHRD shall be notified immediately of:
 - ◆ any unexpected death, including suicide;
 - ◆ serious injury to an individual receiving service;
 - ◆ an allegation of an individual's rape or sexual exploitation;
 - ◆ any incident which in the judgment of the advocate may be sensitive or result in involvement of the news media;
 - ◆ injury trends;
 - ◆ media alerts.
2. Notification should occur by telephone or e-mail.
3. The SHRD shall be kept informed of major developments until the issue is resolved.

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PROTOCOL NO. 106 - 2000
GUIDELINES FOR INVESTIGATION OF HUMAN RIGHTS ISSUES

Date: November 1, 2000

Revised: February 11, 2002

Protocol

All Advocates will utilize accepted standards and practices when investigating human rights issues.

Procedure

- ◆ As appropriate, the investigative procedure shall consist of:
 1. interviews with:
 - ◇ witness(s);
 - ◇ individual receiving service;
 - ◇ staff; and
 - ◇ other persons who may provide relevant information.
 2. obtaining a written statement from each persons interviewed when such a statement is necessary to document oral interviews;
 3. a review of the relevant records of the individual involved;
 4. a visit to the site of an alleged incident;
 5. a review of pertinent statutes, administrative policies and procedures relative to the issue.
- ◆ The advocate shall maintain an accurate record of the investigation; documentation is to include persons contacted, conversations and results.
- ◆ When a complaint is resolved below the level of the program director, and the individual is satisfied with the remedy and wishes no further levels of appeal, the advocate must make a determination of whether or not a human rights violation occurred based on the facts of the situation.

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**PROTOCOL NO. 108 - 2000
USE OF AUDIO AND/OR VIDEO EQUIPMENT DURING
INDEPENDENT INVESTIGATIONS**

Date: November 1, 2000

Protocol

During the course of an independent investigation, the advocate should consider audio and/or video taping of witnesses and photographs of evidence when it appears that such records may be necessary to substantiate a violation of rights.

Procedure

The advocate shall:

- ◆ obtain permission from the witness to audio/video tape the session;
- ◆ when there is visible physical evidence pertinent to a rights investigation, the advocate should photograph the evidence and should complete the following documentation;
 - ◇ date, time and location taken;
 - ◇ name of person(s) in photograph; and
 - ◇ name of person who took photograph.
- ◆ audio and/or videotapes and photographs taken by the advocate shall remain in the possession of the advocate. These records may be shared with the program, central office or the Department of Social Services as deemed appropriate by the SHRD; and
- ◆ release of investigative material to other persons or agencies shall be made in accordance with OHR Policy No.23, Departmental Policies, state and federal laws.

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Margaret S. Walsh, State Human Rights Director

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**PROTOCOL NO. 109 - 2000
ROLE OF THE ADVOCATE IN THE ABUSE/NEGLECT
INVESTIGATION PROCESS**

Date: November 1, 2000
Revised: February 11, 2002

Protocol

Each advocate shall monitor all individual abuse/neglect investigations, and protect the rights of the individual. Monitoring may in some cases include participation in the investigation. The advocate shall decide whether or not such monitoring includes sitting in on interviews or merely reviewing the written investigation reports.

Procedures in State Operated Facilities

- ◆ Upon notification from the Facility Director, the Facility Advocate will identify himself/herself and his/her role to the individual.
- ◆ The advocate may:
 - ◇ independently interview anyone involved in an abuse/neglect investigation;
 - ◇ submit a separate report of his/her findings to the Investigations Manager and SHRD; and
 - ◇ submit recommendations to the Facility Director for the prevention of future abuse/neglect and non-compliance;
- ◆ The advocate will:
 - ◇ discuss the findings of the investigation with the individual;
 - ◇ advise the individual of his right to request a review through the human rights process.
- ◆ The advocate will monitor the Facility Director's implementation of any recommendations(s).
- ◆ The advocate will follow procedures outlined in any Departmental Instruction regarding abuse/neglect investigations whenever those procedures conflict with this protocol.

In Community Programs

- ◆ Upon notification from the Community Program Director the advocate shall:

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- ◇ monitor the investigation and proper notification of DSS and local law enforcement agencies when appropriate;
- ◇ provide technical assistance to the program if needed;
- ◇ participate with the local DSS investigation if appropriate;
- ◇ submit recommendations to the Program Director as appropriate;
- ◇ conduct an independent investigation relative to the alleged abuse/neglect incident when appropriate; and
- ◇ notify the Office of Licensing of the allegation within 24 hours of receipt of the allegation.

Effective: February 11, 2002

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 110 - 2000
HUMAN RIGHTS NOTIFICATION**

Date: November 1, 2000
Revised: February 11, 2002

Protocol

The Advocate shall monitor the provider's compliance with the human rights regulations on informing individuals receiving service of their rights.

Procedure

The Advocate shall:

- ◆ assure that rights notification posters are prominently displayed throughout the facility/program;
- ◆ interview individuals to ensure that they have been notified of their rights as appropriate;
- ◆ review individual's records to ensure written acknowledgment of notification of rights by the client or authorized representative.

Effective: February 11 , 2002

Margaret S. Walsh, State Human Rights Director

Date

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PROTOCOL NO. 111 - 2000
THE ROLE OF THE ADVOCATE IN COMMITMENT AND
RECOMMITMENT HEARINGS

Date: November 1, 2000
Revised: February 11, 2002

Protocol

The Advocate functions within the commitment process as a safeguard for the detained voluntarily admitted, and/or court committed individual.

While advocates are not members of the court, they aid the committed individual by ensuring that the process is performed according to law by:

- ◆ making certain that the individual has access to his attorney and that the attorney actively represents the individual prior to and during the proceedings in accordance with the attorney's obligations and the individual's rights as set forth in VA Code Section 37.1-67.3
- ◆ making certain that the individual has access to the court appointed physician or psychologist prior to the final hearing; and
- ◆ assisting the individual in exercising his right to appeal.

Procedure

At minimum, the advocate is expected to do the following.

- ◆ The advocate reviews the individual's record to determine if:
 - ◇ a pre-screening was conducted;
 - ◇ a petitioner is listed on the commitment papers;
 - ◇ a physician's examination was conducted prior to judgment; and
 - ◇ counsel was appointed.
- ◆ The advocate brings any deficits to the attention of the attorney representing the individual.

Rights

When an individual has been committed to inpatient psychiatric care, he has a legal right to:

- ◆ file an appeal to the Circuit Court within thirty (30) days regardless of his condition;
- ◆ request a jury to hear the appeal.

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If the individual waits longer than thirty (30) days before requesting an appeal, a writ of habeas corpus may be filed.

- ◆ The advocate shall:
 - ◇ help the individual to file a written appeal to the Circuit Court; and/or
 - ◇ assist the individual in contacting an attorney.

Effective: February 11, 2002

Margaret S. Walsh, State Human Rights Director

Date

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PROTOCOL NO. 112 - 2000
THE ROLE OF THE OFFICE OF HUMAN RIGHTS
AT SHRC MEETINGS

Date: November 1, 2000

Protocol

The Office of Human Rights provides administrative support and consultation to the SHRC. Administrative support includes, scheduling and arranging meetings, secretarial services and record keeping. Consultation is limited to guidance in procedural matters and providing information to the committee on the policies, procedures and operations of DMHMRSAS. The Office of Human Rights does not participate in decisions or deliberations of the SHRC.

Procedures

Meeting Attendance

Staff of the Office of Human Rights staff are expected to attend meetings of the SHRC in the following circumstances;

- ◆ The State Human Rights Director will attend all SHRC meeting,
- ◆ The Assistant SHRD will attend meeting in the absence of the SHRD and as otherwise indicated by the SHRD.
- ◆ Regional advocates are expected to attend all SHRC meetings, which take place in their assigned region and those meetings where agenda items from their region are presented. When attendance in the above circumstances is not possible, the advocate shall arrange for appropriate coverage.
- ◆ Advocates assigned to facilities are encouraged to attend SHRC meetings which take place within a one hours drive of their assigned facility or those meetings where agenda items related to their assigned facility or community program(s) are presented.
- ◆ Newly hired advocates are encouraged to attend at least one SHRC meeting as an observer to become familiar with the operation of the SHRC.

Roles

- Staff of the Office of Human Rights serve in various capacities during meetings of the SHRC.
- ◆ The SHRD serves as consultant to the committee on procedures and provides information on DMHMRSAS policies, procedures and operations as requested. The SHRD also assists the committee in developing policies and procedures to manage the business of the committee.

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- ◆ The Assistant SHRD serves as consultant to the committee in the absence of the SHRD and monitors the performance of Office of Human Rights staff in relation to the presentation of human rights plans, variances and consumer representation before the SHRC.
- ◆ Advocates (regional and facility based advocates) represent the rights of persons in facilities and programs covered by the regulations. This includes reviewing and making recommendations to the committee on human rights plans, variances, LHRC nominations and representing consumers before the committee.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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PROTOCOL NO. 113 - 2000
LHRC RECRUITMENT AND NOMINATION

Date: November 1, 2000

Policy

Advocates shall assist LHRCs in recruiting and making nominations to the SHRC to promote a consistent and fair process across the State. When a provider is in the process of establishing or re-establishing an LHRC, the advocate shall actively participate in the interviewing of potential candidates.

Procedures

Recruitment

The advocate shall assist the LHRC in the recruiting process by developing a public announcement.

- ◆ The announcement should include:
 - ◇ Definition of LHRC;
 - ◇ Purpose/Goals of LHRCs;
 - ◇ Meeting frequency of LHRCs;
 - ◇ Population invited to volunteer for membership;
 - ◇ Cutoff date;
 - ◇ Where to direct inquires/applications.

- ◆ The announcement may be provided to any of the following;
 - ◇ Local newspapers
 - ◇ TV and radio
 - ◇ Churches/religious organizations
 - ◇ Consumer advocacy groups
 - ◇ Civic, senior citizen human service and professional organizations
 - ◇ DMHMRSAS website
 - ◇ Other interested individuals and organizations.

- ◆ The sponsoring provider (s) is responsible for any costs associated with publicizing LHRC vacancies including;
 - ◇ newspaper ads,
 - ◇ printing flyers; and
 - ◇ mailing cost.

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A copy of a sample announcement is attached.

- ◆ The sponsoring provider (s) may participate in the recruitment of applicants for the LHRC however have no role in the interviewing and selection of applicants.

Applications

The LHRC, provider or the advocate may provide application forms to prospective applicants. Applications should be returned to the advocate or to the LHRC Chairperson.

A sample application form is attached.

Interviewing

- ◆ The advocate shall assist the LHRC in reviewing the applications and in interviewing new applicants.
- ◆ The advocate's role in the interview process is to determine if the individuals interviewed;
 - ◇ meet the criteria for LHRC composition,
 - ◇ present any conflicts of interest; or
 - ◇ demonstrate any compelling reason(s) to disqualify service on the LHRC.
- ◆ All applicants who meet the criteria for LHRC composition must be considered by the LHRC.
- ◆ When establishing a new LHRC or re-establishing a non-functioning LHRC, the advocate will review all applications and interview nominees.
- ◆ The advocate may solicit the assistance of LHRC members from other areas to participate in the interview process. The advocate will consult with the Assistant State Human Rights Director on all applications when there are no LHRC members to assist in the process.
- ◆ Applicants who are already known to the advocate/LHRC or individuals being considered for reappointment shall also be interviewed. They must also be evaluated according to requirements for LHRC composition, conflicts of interest or other compelling reasons to disqualify service on the LHRC.
- ◆ All members of the LHRC or a subgroup of the LHRC may conduct interviews. Interviews may be conducted over the telephone when a face-to-face interview is not possible. An interview sheet should be

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completed for each applicant by each interviewer, with a composite (summary) sheet to indicate the recommendation of the interview panel. The individual interview sheets as well as the composite sheets with recommendations must be submitted to the SHRC. A sample interview sheet is attached.

- ◆ The advocate shall ensure that the interview process includes general information on the functions and activities of LHRCs and that each applicant is given fair consideration.

Recommendations to SHRC

The advocate shall prepare a packet of information for submission to the SHRC. This packet shall include;

- A copy of the application for LHRC membership completed by each applicant,
- A copy of the interview sheet for each applicant completed by each member of the interview committee,
- A copy of the summary sheet completed by the panel or advocate for each applicant, and
- A cover letter to the Chair of the SHRC from the advocate summarizing the recommendations of the LHRC, and stating any known reasons to disqualify any applicant(s).

The advocate shall submit the packet to be added to the agenda for the next scheduled SHRC meeting.

The advocate or a substitute shall attend the SHRC meeting at which the membership appointments are considered and be prepared to address questions raised by the SHRC.

Notification to Applicants

The Office of the SHRD will handle on behalf of the SHRC notification to those individuals selected for appointment to an LHRC and those not selected for appointment.

Applicant Appeals

Individuals who are not selected for appointment may request reconsideration by the LHRC. The request must be written and directed to the Chairperson of the LHRC with a copy to the Chairperson of the SHRC. If the LHRC is being established or re-established the written request should be directed to the assigned advocate.

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The LHRC should reconsider the applicant. A second interview may or may not be appropriate depending upon the reason for non-selection. The LHRC should forward a letter to the SHRC with a recommendation.

The SHRC will review the recommendation form the LHRC and application information to make a decision. The individual will be notified in writing of the SHRC decision. If the individual is again not selected for appointment to an LHRC, there is no further appeal.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director Date

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**PROTOCOL NO. 114 - 2000
LHRC APPEALS**

Date: Revised February 21, 2001
Revised February 11, 2002

Protocol

When complaints are not or cannot be resolved in a timely manner at the program or director level, or the individual is not satisfied with the director's decision or actions; the advocate shall petition the LHRC for review of the complaint. The individual has the option of choosing LHRC review without regard to the status of efforts or the outcome of resolving the complaint at a lower level.

Procedures

Drafting the Petition

A petition for an LHRC hearing must be written and should be filed with the LHRC following the director's decision, action or inaction. The advocate is responsible for drafting the petition or providing consultation/assistance to the individual's chosen representative in drafting the petition. The petition should contain all facts and arguments surrounding the complaint but at minimum shall contain the following information:

- ◆ The specific right(s) violated, including specific citations from the Rules and Regulations;
- ◆ Specific information on the chronology of events including the date and time of the alleged violation;
- ◆ The individuals involved, the person(s) alleged to have committed the violation and those witnessing the violation or having knowledge of the violation;
- ◆ The informal resolution efforts attempted and, if known, why those efforts failed;
- ◆ The individual's requested relief;
- ◆ Copies of those portions of the individual record that document events and actions;
- ◆ Other supporting documentation, including letters, memos or other documents.

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Multiple complaints may be filed in a single petition, however care should be taken to ensure that the facts and documentation for each complaint are clearly outlined.

Review Process

- The advocate or chosen representative of the individual shall forward the petition to the Chairperson of the LHRC with a copy to the Director of the facility/program and to the SHRD.
- When the advocate has not drafted the petition or is not representing the individual, he/she shall serve as consultant to the individual's chosen representative. The advocate shall ensure that the DMHMRSAS human rights process is followed, including timeframes and notification to all parties including the assigned licensing specialist when appropriate. It is appropriate to notify licensing of an LHRC appeal that may impact the status of a program's/provider's license.
- Within five working days of transmittal of the petition to the Director of the facility/program, the advocate shall follow up with the Director to determine if the facility/program will file written statements with the LHRC. The representative for the consumer and the facility/program must present all written documentation prior to a review hearing.
- The advocate shall work with the LHRC to schedule a hearing within 10 working days of receiving the petition by the LHRC chairperson.
- The advocate shall provide at least 5 working days notice of the scheduled hearing to all parties and the SHRD.
- The advocate shall represent the individual at the hearing or serve as consultant to the consumer and his chosen representative.
- The advocate shall arrange for a second advocate to provide consultation to the LHRC during the hearing.
- Following the proceedings, the advocate shall, where necessary, assist the LHRC in writing their findings/recommendations. It is not expected that the advocate write the findings.
- The advocate shall review with the individual and/or his representative the findings/recommendations and corrective actions taken or plans developed by the facility/program director.

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- The advocate shall assist the individual to resolve conflicts around the corrective action plan and inform the individual of the availability of appeal to the SHRC if satisfaction/requested relief is not granted.

Effective: February 11, 2002

Margaret S. Walsh, State Human Rights Director

Date

PROTOCOL NO. 115 - 2000
SUPERVISION

Date: November 1, 20000

Protocol

Supervisors are responsible for providing leadership, direction, and direct services where necessary to implement a facility and/or community based human rights program for individuals receiving mental health, mental retardation and substance abuse services through facilities/programs operated, licensed or funded by DMHMRSAS.

Responsibilities:

- ◆ **Orientation and training of new staff.**
This responsibility shall be accomplished through adherence to the Office of Human Rights Protocol #3. Under no circumstances will the assignment of a mentor to a staff person supplant the supervisor's role and responsibility in ensuring the orientation and training of new staff.
- ◆ **Face-to-face Supervisory Conferences.**
The supervisor is responsible for providing face-to-face supervision at least quarterly (every 90 days). These conferences shall be documented and shall address the following areas as needed:
 - ◇ Facility/community issues
 - ◇ Specific cases and problems
 - ◇ Training needs as identified by the supervisor and the staff person
 - ◇ Staff performance issues/personnel concerns
 - ◇ Review of written work (documentation, LHRC/SHRC presentations)
- ◆ **On-going consultation and direction.** Each supervisor is expected to provide on-going consultation, direction and follow-up with staff in advocating for consumers. Supervisors and staff are expected to maintain at least weekly contact for updating, schedule planning and ensuring advocacy coverage. Weekly or even daily consultation and follow-up do not substitute for direct face-to-face supervision of staff at least quarterly.
- ◆ **Evaluating and planning for staff development.**
As a part of the performance planning process, the supervisor must annually evaluate staff training needs and facilitate staff attendance at appropriate training events.

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- ◆ **Ensuring appropriate staffing.**
Each supervisor is responsible for ensuring appropriate staff coverage for his/her assigned area. This includes appropriate office and telephone coverage at all times (daily, holidays, vacations, vacancies, etc.). Each supervisor is responsible for ensuring the schedules are posted weekly on the shared Office of Human Rights drive or faxed/e-mailed to the central office by each Friday at noon for the coming week.

- ◆ **Documentation**
Each supervisor is responsible for ensuring that staff activities are reported and documented appropriately. This includes ensuring that staff input the appropriate information into the CHRIS system by the end of each month.

Each supervisor is responsible for developing a written performance plan and evaluation for each assigned staff person according to Office of Human Resources requirements.

- ◆ **Facilitating professional relationships with facility and community programs.** It is the responsibility of the supervisor to assist staff in developing and maintaining a professional working relationship with staff and administrators of facilities/programs such that mechanisms are in place for resolving consumer complaints.

Effective January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 116 - 2000
TRAINING OF LHRC MEMBERS**

Date: November 1, 2000
Revised: February 11, 2002

Protocol

Each Local Human Rights Committee member shall receive orientation within 90 days of appointment and annual training on the human rights regulations and process during the course of his membership.

Procedure

The advocate shall:

- ◆ provide each new LHRC member an orientation packet, to include at a minimum, a copy of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*, the LHRC Training Manual, the LHRC bylaws, a copy of the roster of LHRC members and affiliated agencies,
- ◆ arrange for each sponsoring and/or affiliated program to provide a copy of the program description and to the extent possible, provide a tour of each program including an introduction to the Program Director and staff;
- ◆ provide an orientation session for new members prior to their attendance at a regular meeting
- ◆ develop and implement an annual training schedule for all LHRC members using the LHRC Training Manual; and
- ◆ document orientation and training of LHRC members

Effective: February 11, 2002

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 117 - 2000
REPORTS TO THE LHRC**

Date: November 1, 2000
Revised: February 11, 2002

Protocol

The Human Rights Advocate assigned to a state facility shall present a written report to the Local Human Rights Committee of human rights activities and issues relative to the facility at each regularly scheduled meeting. This report may include information to be included in reports to the central office however, shall not include information on specific consumers.

The advocate assigned to work with a community LHRC shall work with each sponsoring or affiliated provider to provide the information specified below at each regularly scheduled meeting of the LHRC. The advocate may cooperate with the providers in preparing and presenting these reports.

Procedure

The content of the report shall include but is not limited to the following:

- ◆ number of abuse/neglect allegations received during the reporting period and the number of complaints founded and unfounded;
- ◆ changes in facility/program policies and procedures resulting from abuse/neglect investigations or other incidents;
- ◆ number of complaints by category, the number substantiated and the level of resolution;
- ◆ systemic rights issues; and
- ◆ human rights program updates and national issues

Effective: February 11, 2002

Margaret S. Walsh, State Human Rights Director

Date

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DRAFT 2/21/01

PROTOCOL NO. 118 - 2001
THE ROLE OF THE ADVOCATE
AT LHRC MEETINGS

Date: February 21, 2001

Protocol

The assigned advocate provides consultation to the LHRC. The advocate ensures that the sponsoring programs/providers provide administrative support including the scheduling and arranging of meetings, secretarial services and record keeping mechanisms. Consultation is limited to guidance in procedural matters and providing information to the committee on the policies, procedures and operations of DMHMRSAS. The advocate does not participate in decisions or deliberations of the SHRC.

Procedures

Meeting Attendance

The advocate is expected to attend all meetings of the LHRC. When the absence of the assigned advocate at the LHRC meeting is unavoidable, he/she shall arrange for another advocate to attend the meeting to provide consultation and guidance.

Roles

The advocate serves in various capacities during meetings of the LHRC.

- ◆ The advocate serves as consultant to the committee on procedures and provides information on DMHMRSAS policies, procedures and operations as requested. The advocate also assists the committee in developing policies and procedures to manage the business of the committee.
- ◆ The regional advocate or another advocate may serve as consultant to the committee in the absence of the Advocate.
- ◆ The regional advocate is expected to monitor the performance of the advocate in relation to consumer representation before the LHRC and the provision of consultation and technical assistance to the Committee in the development of variance requests, interviewing and recommending candidates for committee membership, etc..

Effective: April 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 119 - 2000
OFFICE OF HUMAN RIGHTS REPORTS**

Date: November 1, 2000

Protocol

Human Rights Advocates assigned to state operated facilities shall submit a monthly report to his/her supervisor by the 10th of the following month.

The Regional Advocates shall submit a bi-monthly report for the assigned region. The report shall include issues identified in the monthly reports of advocates assigned to facilities in the region and issues in community programs.

Procedure

The monthly report shall consist of:

- ◆ A narrative report which shall address:
 - ◇ significant concerns regarding complaints and abuse allegations;
 - ◇ compliance issues;
 - ◇ systemic issues; and
 - ◇ special projects and activities.

AND

- ◆ A completed statistical report using the attached form.
- ◆ Monthly reports should not contain client specific information, however information on a particularly significant or problematic case or situation may be included without identifying information.

The bi-monthly report shall consist of:

- ◆ A narrative report which shall address:
 - ◇ significant concerns regarding complaints and abuse allegations for facilities and the community;
 - ◇ compliance issues (facility and community) ;
 - ◇ systemic issues (facility and community); and
 - ◇ special projects and activities of the regional advocate.

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- ◆ Bi-monthly reports should not contain client specific information however; information on a particularly significant or problematic case or situation may be included without identifying information.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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Monthly Facility Advocacy Report

This report is a report of the overall activities of each advocate. The CHRIS reports should not be included as a part of this report, however if there is a particular trend to be noted about the data in CHRIS, this should be noted in the narrative section.

Narrative:

New Issues

This section should include information on new human rights issues that were identified during the month. Issues should be discussed without reference to a specific client/resident, however indicate whether or not the issue effects a single individual or multiple clients. Indicate actions taken by the advocate and the actions of the facility. Also indicate further plans for resolution if not already resolved.

On-going Issues

This section should include updates on issues previously identified. Include advocate actions since the last report, facility actions and results.

Advocacy Activities	Number	Hours
Information and Referral	_____	_____
Patient/Resident/Family Conferences	_____	_____
Meetings, Hearings, and Staffings	_____	_____
Individual Plan/Record/Program Reviews	_____	_____
Facility Policy/Procedure Review	_____	_____
Ward Visits	_____	_____
S/R Review	_____	_____
Incident Review	_____	_____

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Summary (Please provide a brief description of the information provided above. Describe any trends, findings or issues raised as a result of your activities.)

LHRC Activities Hours	Number
Meeting _____	_____
Hearings _____	_____
Training _____	_____
Consultation/Technical Assistance _____	_____
Recruiting _____	_____

Summary (Please note any issues raised as a result of your activities with the LHRC. Attach copies of the LHRC agenda and minutes not previously submitted.)

Education and Training Presented	#Individuals	#Sessions	#Hours
Client/Family Education	_____	_____	_____
Staff Education	_____	_____	_____
Community Education	_____	_____	_____

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Issues Identified/Further Needs

Professional Growth and Development

	Number	# Hours
Facility Training Events Attended	_____	_____
External Training Events Attended	_____	_____
Other	_____	_____

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**PROTOCOL NO. 120 - 2000
TIME, LEAVE AND WEEKLY ITINERARIES**

Date: November 1, 2000

Protocol

Time and leave procedures for all human rights staff shall be in compliance with DMHMRSAS policies.

Procedure

- ◆ Regular working hours are 8:15 a.m. to 5:00 p.m. with 45 minutes for lunch. All staff must make a written request to the Assistant State Human Rights Director for a modification of these hours on an on-going basis. Direct supervisors may approve requests for short-term (one week) modifications to work schedules or one-day changes to accommodate advocacy activities at a facility or program.
- ◆ Leave requests [annual, sick, etc.] shall be submitted to the Advocate's supervisor for approval in a timely fashion. To the extent possible, leave requests shall be submitted on approved forms or verbally approved prior to taking leave.
- ◆ Weekly schedules:
 - ◇ The schedule should be entered on the Office of Human Rights shared drive but in an emergency may be faxed or e-mailed on a form developed by the regional advocate which includes all staff supervised along with telephone and pager numbers.
 - ◇ The regional advocate shall report a schedule for all staff in the region to the Office of Human Rights on each Friday for the coming week;
 - ◇ The schedule shall include:
 - each individual's planned off site activity/meeting/leave,
 - date and time for activity/meeting [approximate if unknown],
 - telephone number where individual may be reached,
 - the individual providing coverage in the advocate's absence.

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- ◇ The Facility Director shall also be informed when the advocate assigned to the facility will be away from the facility and any provisions for advocacy services in the assigned advocates absence.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 121 - 2000
USE OF DMHMRSAS PROPERTY**

Date: November 1, 2000

Protocol

All Office of Human Rights employees shall be held accountable for state property utilized in the performance of their assigned duties

Procedure

- ◆ All state property shall be utilized in compliance with departmental and state regulations.
- ◆ Upon separation from employment with DMHMRSAS, the staff shall return any state property used during tenure with DMHMRSAS.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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**PROTOCOL NO. 122 - 2000
CONTACT WITH THE MEDIA**

Date: November 1, 2000

Protocol

Requests for information from print or other news media shall be referred to the Office of the DMHMRSAS Office of Media Relations and/or the Facility/Program Director.

Procedure

- ◆ When contacted by a member of the news media, the human rights advocate shall refer the call to:
 - ◇ the facility/program director, and/or
 - ◇ the DMHMRSAS Office of Media Relations

AND

- ◇ immediately notify the State Human Rights Director by telephone or e-mail.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date

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PROTOCOL NO. 123 - 2000
REQUESTS FOR RELEASE OF INFORMATION

Date: November 1, 2000

Protocol

- ◆ Advocates shall take affirmative steps to prevent disclosure of records and information, and to ensure the confidentiality of information in accordance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*.
- ◆ Reports and information, either in the possession of the program or the Human Rights Advocate shall not be disclosed or released by the Advocate to any third party.
- ◆ Human Rights Advocates are not the custodians of individual records. Any information in Human Rights files is generally obtained for other sources.
- ◆ Any response to a request for information regarding human rights or other information acquired in the course of providing rights services shall conform to the requirements set forth in Office of Human Rights policies/procedures, Departmental Instructions and the Code of Virginia.

Procedure

- ◆ When a Human Rights Advocate receives a request for release of information, the Advocate shall refer the person requesting the information to the appropriate person:
 - ◇ if the request is for resident records, or other confidential information, the person making the request shall be referred to the facility/program director;
 - ◇ if the request is for information from other records (under the Freedom of Information Act), refer the person making the request to either the Program's Freedom of Information Officer or the DMHMRSAS Freedom of Information Officer in the Commissioner's Office;

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◇ any unclear issue should be referred to the SHRD.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director Date

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**PROTOCOL NO. 124 - 2000
PARTICIPATION BY HUMAN RIGHTS ADVOCATES IN
EXTERNAL ACTIVITIES IN AN OFFICIAL CAPACITY**

Date: November 1, 2000

Protocol

Human Rights Advocates shall obtain prior approval to participate in external activities in an official capacity.

Procedure

Prior to acceptance of any requests to speak publicly in an official capacity, the Advocate shall discuss the request in detail with their supervisor.

- ◆ Advocates should maintain an awareness of the sensitivity of many issues in which the Department is involved.
- ◆ Advocates should be prudent in presenting their personal opinions on departmental issues so as to avoid controversy, and misinterpretation by the press and others.
- ◆ A copy of the attached form, PUBLIC SPEAKING AUTHORIZATION must be completed in its entirety and approved by the SHRD before participating in any speaking engagement.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director Date

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PUBLIC SPEAKING AUTHORIZATION

Meeting / Activity: _____

Meeting Date: _____

Purpose of Meeting / Activity: _____

_____ Topic(s): _____

Role of the Advocate in the Meeting / Activity [participant, observer, speaker, etc.]: _____

Advocate's Signature:	Date:
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<input type="checkbox"/> Approved	Supervisor's Signature:	Date:
<input type="checkbox"/> Disapproved		

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**PROTOCOL NO. 125 - 2000
REQUESTS FOR LEGAL ASSISTANCE FROM THE ATTORNEY
GENERAL**

Revised: January 22, 2002

Date: November 1, 2000

Protocol

All requests for advisory opinions and other legal advice or assistance that originate from Office of Human Rights staff or a member of the State or Local Human Rights Committee shall be initiated through the SHRD.

Procedure

- ◆ Office of Human Rights staff shall promptly notify the SHRD when the need for legal assistance from the Attorney General's office is identified. This includes any need for legal assistance that has been brought to the attention of the OHR staff by a member of the State or Local Human Rights Committee.
- ◆ The SHRD will make the request and will determine whether a written request is needed.
- ◆ The SHRD will communicate any response from the OAG to appropriate staff.
- ◆ Advice obtained is confidential and is for internal use only unless release is specifically authorized by the SHRD.
- ◆ The SHRD shall be immediately notified of any legal papers served on Office of Human Rights staff in their official capacity; or served on a State or Local Human Rights Committee member in their official capacity.
- ◆ A copy of the papers must be faxed to the SHRD the same day as they are received.
- ◆ The SHRD will notify the Office of the Attorney General of the receipt of the legal papers served on Office of Human Rights staff or State and Local Human Rights Committee members.

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- ◆ The Office of the Attorney General will make a determination of the need for OAG involvement.

Effective: January 22, 2002

Margaret S. Walsh, State Human Rights Director Date

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PROTOCOL NO. 128 - 2000
MANAGEMENT OF OFFICE OF HUMAN RIGHTS RECORDS

Date: November 1, 2000

Protocol

- ◆ The Office of Human Rights is the custodian of records of complaints and aggregate abuse data.
- ◆ All other records are the responsibility of the DMHMRSAS, the facility, and/or program.
- ◆ All Office of Human Rights records shall be managed in conformity with established DMHMRSAS applicable policies.
- ◆ All files should be maintained in a secured area [room with a lock on the door, locked drawers, etc.].
- ◆ When destroying confidential material, shred or tear paper into a sufficient number of pieces to prevent recognition of data.

Procedure

Before destruction of records, the advocate shall seek approval for destruction by completing and submitting Form RM-3, Rev.93 of the Commonwealth of Virginia State Library and Archives, Archives and Records Division.



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**PROTOCOL NO. 128
MANAGEMENT OF OFFICE OF HUMAN RIGHTS RECORDS
page 2**

**Retention
Schedule**

The following schedule establishes time frames for the retention of Office of Human Rights records. Purging of records and their destruction will occur within the noted time frames.

RECORD CATEGORY	OHR CENTRAL OFFICE	OHR FIELD OFFICES
Complaint Records	◆ 5 years	◆ hard copy/notes - 1 year ◆ computer reports - 3 years
Abuse Allegation Records	◆ 5 years	◆ hard copy/notes - 3 years ◆ computer reports - 3 years
SHRC/LHRC Records	◆ SHRC Minutes - permanent retention; original kept by OHR ◆ Meeting Tapes - erase after transcription ◆ LHRC Minutes - permanent retention ◆ Appointment letters - 6 years ◆ Memos & correspondence - 2 years ◆ By-laws - permanent retention	◆ LHRC Minutes - permanent retention; original kept by program; a copy maintained by advocate; a copy to OHR ◆ Hearing Tapes - erase after transcription or 3 years whichever comes first ◆ Membership applications & letters of appointment - 6 years ◆ Memos & correspondence - 1 year or until no longer pertinent ◆ Variances-permanent retention
Monthly Reports	◆ 3 years	◆ hard copy - 3 years
Correspondence/Memoranda	◆ 3 years	◆ 3 years
Restrictive treatment plans	◆ SHRC approved - 3 years or until client released from facility	◆ 1 year or until no longer pertinent
Seclusion/Restraint reports	◆ 3 years	◆ once data has been entered, worksheets can be destroyed ◆ computer reports - 3 years

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director Date

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PROTOCOL NO. 130 - 2000
PROCESSING AND APPROVAL OF HUMAN RIGHTS PLANS

Date: November 1, 2000

Protocol

Advocates with community program responsibility shall review Human Rights Plans for compliance with the Rules & Regulations and assist in the SHRC review process in accordance with established procedures.

Procedure

- ◆ The draft plan is submitted to the Advocate for review of compliance with the Rules & Regulations. The Advocate consults with the Executive Director of the CSB or licensed program for any modifications.
- ◆ The plan is forwarded to the State Human Rights Committee with a letter of recommendation for approval and any other suggested recommendations from the Advocate.
- ◆ The plan is reviewed by the SHRC at its next regularly scheduled meeting.
 - ◇ If the plan is approved, a letter is sent from the SHRC to the respective CSB or licensed program;
 - ◇ If the plan is not approved, the CSB or licensed program will receive a letter from the SHRC indicating the reasons for disapproval as well as any modifications and recommendations.
- ◆ The Advocate will provide further consultation to the CSB or licensed program regarding any modifications and recommendations to ensure compliance with the Rules & Regulations.

Effective: January 1, 2001

Margaret S. Walsh, State Human Rights Director

Date