Office of Regulatory Management

Economic Review Form

Agency name	Department of Behavioral Health and Developmental Services (DBHDS)
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC35-115
VAC Chapter title(s)	Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services
Action title	Guidance Document (OHR01): Reporting Peer-on-Peer Aggressions as Potential Neglect
Date this document prepared	3/10/2023
Regulatory Stage (including Issuance of Guidance Documents)	Revised draft of new guidance.

Cost Benefit Analysis

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	**Directs providers to only report incidents to the Office of Human Rights (OHR) in the DBHDS Computerized Human Rights Information System (CHRIS) that are alleged to have resulted in a human rights violation, whether that complaint is by an individual receiving services, by provider staff, or by other people outside the agency. In previous guidance, the emphasis for reporting incidents of peer-on-peer aggressions to the OHR in CHRIS was on the occurrence of the incident in combination with either an allegation or provider suspicion of neglect.** Direct Costs: The guidance document is not enforceable; therefore, it does not change the underlying regulation related to reporting requirements. This change is not expected to result in a direct cost for providers. The amended guidance document clarifies that providers should only report incidents to OHR in CHRIS that are alleged to have resulted in a human rights violation, whether that complaint is by an individual receiving services, by provider staff, or by other people outside the agency. Even when the outcome is known or predictable to the provider, a CHRIS report and investigation of circumstances is required for all complaints. Previous guidance encouraged providers to

	report all incidents of peer-on-peer aggression OHR completed a review of data and found that the office had received a high volume of reports related to peer- to-peer aggression (63%), however, only a small number of those reported incidents were determined to be a violation of an individual's right to be free from neglect, indicating that the majority of incidents of peer-on-peer aggression are not the result of neglect. The proposed updated guidance document better aligns agency guidance with regulatory requirements. Indirect Costs: N/A. Direct Benefits: DBHDS guidance documents are not enforceable, and therefore, this change will not result in any direct benefits for providers, as there is no change to the underlying regulation regarding reporting requirements for providers. However, this updated guidance document is expected to improve the department's oversight of providers, as previous guidance failed to acknowledge that incidents of peer-on-peer aggressions can and do occur when neglect is not present. Additionally, improved guidance may save staff time by reducing unnecessary reporting of incidents that do not involve a human rights violation. Indirect Benefits: N/A.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	**The current guidance for providers on reporting incidents of peer-on- peer aggression recommends providers follow the regulation to first conduct an internal review of the incident. If a staff member is suspected to have violated the provisions of the human rights regulations (12 VAC 23-115 et seq.), then the provider is required to report the incident to OHR through CHRIS.**

	Direct Costs: DBHDS guidance documents are not enforceable, and therefore, there are no direct costs anticipated for providers should the guidance document providing clarification on reportable incidents of peer-on-peer aggression not be amended. However, the OHR noted that the amended guidance document was developed from a comprehensive review of data reported to CHRIS and conversations with key stakeholders. Updated guidance is expected to improve reporting and departmental review of cases of peer-on- peer aggression. Failure to amend this guidance document would prolong confusion amongst providers regarding what qualifies as a "reportable incident." Indirect Costs: N/A. Direct Benefits: DBHDS guidance documents are not enforceable, and therefore, maintaining the current requirement is not expected to result in any economic benefit for providers. Indirect Benefits: N/A.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	There is no alternative to the amendment of the guidance document. If the document is not amended, then the current guidance document would remain as it is currently written. The costs and benefits of such action are described in Table 1b.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)

(3) Net Monetized Benefit	
(4) Other Costs & Benefits (Non-Monetized)	
(5) Information Sources	

Impact on Local Partners

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Community service boards (CSBs) are the only local partners who may be impacted by the proposed change to the guidance document related to reporting incidents of peer-to-peer aggression. As providers, they are expected to experience the same costs and benefits outlined in Table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)		
(4) Assistance		
(5) Information Sources		

Impacts on Families

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Virginia families are not expected to experience any direct costs or benefits resulting from the proposed change to the guidance document related to reporting incidents of peer-to-peer aggression.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)		
(4) Information Sources		

Impacts on Small Businesses

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	Small businesses impacted by this guidance document are licensed and funded by DBHDS as behavioral health and developmental services providers who meet the definition of small business as defined in the Code of Virginia § 2.2-4007.04. Small business providers are expected to experience the same anticipated benefits and costs as outlined in table 1a.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)		
(4) Alternatives		
(5) Information Sources		

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
	(M/A):				
	(D/A):				
	(M/R):				
	(D/R):				
NOTE: This EIA is for a guidance document. DBHDS guidance documents are not enforceable, and therefore, contain no mandates.				**Grand Total of Changes in Requirements:**	**(M/A):**
					(D/A):
					(M/R):
					(D/R):

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
Guidance Document (OHR01): Reporting Peer-on-Peer Aggressions as Potential Neglect	4 initial draft	4.25 final draft	