

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 (OHR02): Uses of Video and Audio Monitoring in Provider Service Settings
Date this document prepared	7/10/2024 9/16/2024 Final Effective Posted
Regulatory Stage (including Issuance of Guidance Documents)	Draft of new guidance

UPDATE 9/16/2024: No changes were made to this document except to remove 'draft' and insert the effective date.

Cost Benefit Analysis

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

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Directs providers regarding requirements for written policies and procedures specific to the use of monitoring devices, as necessary for safety and operational purposes in a provider service setting.</p> <p>Direct Costs: The guidance document is not enforceable; therefore, it does not change the underlying regulations related to individual right to privacy and confidentiality or provider responsibilities to ensure a safe and therapeutic treatment environment. This guidance is not expected to result in a direct cost for providers. The guidance document clarifies that when a provider determines the need to utilize monitoring devices in a service setting, it must have policies and procedures that make clear for individuals, families, and staff the purpose for the use of the monitoring and how the provider will hold best practices in tandem with individuals' confidentiality, safety, and privacy.</p> <p>Indirect Costs: N/A.</p>
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	<p>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 requirements for providers to assure privacy and confidentiality for individuals while ensuring a safe and therapeutic treatment environment. This guidance document is expected to reduce unnecessary administrative processes by clarifying that when (i) monitoring devices are positioned in common areas and (ii) the protections referenced in regulation have been addressed in a provider’s policy and procedures, then the use of monitoring devices does not require review by a local human rights committee. Additionally, guidance may help individuals by clarifying that processes established for monitoring cannot be used to diminish or substitute for provider staff responsibilities specific to supervision and support of individuals receiving services.</p> <p>Indirect Benefits: N/A.</p>	
(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)	<p>This guidance will provide clarification regarding requirements for written policies and procedures specific to the use of monitoring devices, as necessary for safety and operational purposes in a provider service setting.</p> <p>Direct Costs: DBHDS guidance documents are not enforceable, and therefore, there are no direct costs anticipated for providers.</p> <p>Indirect Costs: N/A.</p> <p>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.</p>
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	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 issuing the guidance document. If the document is not issued, then the current misunderstanding and noncompliance with the regulatory requirement for written, approved policies will continue unchecked. 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)	Community services boards (CSBs) are the only local partners impacted by this regulation. There are no direct or indirect costs associated with the issuance of this guidance document, as DBHDS guidance documents are not enforceable. The direct benefit to local partners is the same as the
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	direct benefit to private providers. This guidance document provides clarification regarding human rights regulations and the use of monitoring devices in service settings. The monetary impact of this benefit cannot be determined. There are no indirect benefits to issuing this guidance document.	
(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; however, they may experience benefits resulting from clarification related to provider requirements to assure processes established for monitoring cannot be used to diminish or substitute for provider staff responsibilities specific to supervision and support of individuals receiving services. The monetary value of this benefit cannot be determined.	
(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 providers licensed and funded by DBHDS as behavioral health and developmental services 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

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

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
OHR02: Uses of Video and Audio Monitoring in Provider Service Settings	N/A	1,252	1,252