

**The following is a sample of the terms and definitions taken from the Human Rights Regulations. This is not an exhaustive list of definitions. You may review the entire list of terms and definitions by clicking the Human Rights Regulations link on the Office of Human Rights home page (under *Our Purpose*).**

"Abuse" means any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the department, excluding those operated by the Department of Corrections, that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to a person receiving care or treatment for mental illness, intellectual disability, or substance abuse. Examples of abuse include acts such as:

1. Rape, sexual assault, or other criminal sexual behavior;
2. Assault or battery;
3. Use of language that demeans, threatens, intimidates, or humiliates the person;
4. Misuse or misappropriation of the person's assets, goods, or property;
5. Use of excessive force when placing a person in physical or mechanical restraint;
6. Use of physical or mechanical restraints on a person that is not in compliance with federal and state laws, regulations, and policies; professionally accepted standards of practice; or the person's individualized services plan; and
7. Use of more restrictive or intensive services or denial of services to punish the person or that is not consistent with his individualized services plan. See § 37.2-100 of the Code of Virginia.

"Administrative hearing" means an administrative proceeding held pursuant to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Advance directive" means a document voluntarily executed in accordance with § 54.1-2983 of the Code of Virginia or the laws of another state where executed (§ 54.1-2993 of the Code of Virginia). This may include a wellness recovery action plan (WRAP) or similar document as long as it is executed in accordance with § 54.1-2983 of the Code of Virginia or the laws of another state. A WRAP or similar document may identify the health care agent who is authorized to act as the individual's substitute decision maker.

"Authorization" means a document signed by the individual receiving services or that individual's authorized representative that authorizes the provider to disclose identifying information about the individual. An authorization shall be voluntary. To be voluntary, the authorization shall be given by the individual receiving services or his authorized representative freely and without undue inducement; any element of force, fraud, deceit, or duress; or any form of constraint or coercion.

"Authorized representative" means a person permitted by law or this chapter to authorize the disclosure of information or to consent to treatment and services or participation in human research. The decision-making authority of an authorized representative recognized or designated under this chapter is limited to decisions pertaining to the designating provider. Legal guardians, attorneys-in-fact,

or health care agents appointed pursuant to § 54.1-2983 of the Code of Virginia may have decision-making authority beyond such provider.

"Behavior intervention" means those principles and methods employed by a provider to help an individual to achieve a positive outcome and to address challenging behavior in a constructive and safe manner. Behavior management principles and methods must be employed in accordance with the individualized services plan and written policies and procedures governing service expectations, treatment goals, safety, and security.

"Behavioral treatment plan," "functional plan," or "behavioral support plan" means any set of documented procedures that are an integral part of the individualized services plan and are developed on the basis of a systematic data collection, such as a functional assessment, for the purpose of assisting an individual to achieve the following:

1. Improved behavioral functioning and effectiveness;
2. Alleviation of symptoms of psychopathology; or
3. Reduction of challenging behaviors.

"Caregiver" means an employee or contractor who provides care and support services; medical services; or other treatment, rehabilitation, or habilitation services.

"Complaint" means an allegation of a violation of this chapter or a provider's policies and procedures related to this chapter.

"Consent" means the voluntary agreement of an individual or that individual's authorized representative to specific services. Consent shall be given freely and without undue inducement; any element of force, fraud, deceit, or duress; or any form of constraint or coercion. Consent may be expressed through any means appropriate for the individual, including verbally, through physical gestures or behaviors, in Braille or American Sign Language, in writing, or through other methods.

"Discharge plan" means the written plan that establishes the criteria for an individual's discharge from a service and identifies and coordinates delivery of any services needed after discharge.

"Disclosure" means the release by a provider of information identifying an individual.

"Emergency" means a situation that requires a person to take immediate action to avoid harm, injury, or death to an individual or to others.

"Exploitation" means the misuse or misappropriation of the individual's assets, goods, or property. Exploitation is a type of abuse. (See § 37.2-100 of the Code of Virginia.) Exploitation also includes the use of a position of authority to extract personal gain from an individual. Exploitation includes violations of 12VAC35-115-120 and 12VAC35-115-130. Exploitation does not include the billing of an individual's third party payer for services. Exploitation also does not include instances of use or appropriation of an individual's assets, goods, or property when permission is given by the individual or his authorized representative:

1. With full knowledge of the consequences;
2. With no inducements; and

3. Without force, misrepresentation, fraud, deceit, duress of any form, constraint, or coercion.

"Health care operations" means any activities of the provider to the extent that the activities are related to its provision of health care services. Examples include:

1. Conducting quality assessment and improvement activities, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives, and related functions that do not include treatment;
2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, and training, licensing, or credentialing activities;
3. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs; and
4. Other activities contained within the definition of health care operations in 45 CFR 164.501.

"Human research" means any systematic investigation, including research development, testing, and evaluation, utilizing human subjects that is designed to develop or contribute to generalized knowledge. Human research shall not include research exempt from federal research regulations pursuant to 45 CFR 46.101(b).

"Human rights advocate" means a person employed by the commissioner upon recommendation of the State Human Rights Director to help individuals receiving services exercise their rights under this chapter. See 12VAC35-115-260 C.

"Individual" means a person who is receiving services. This term includes the terms "consumer," "patient," "resident," "recipient," and "client."

"Individualized services plan" or "ISP" means a comprehensive and regularly updated written plan that describes the individual's needs, the measurable goals and objectives to address those needs, and strategies to reach the individual's goals. An ISP is person-centered, empowers the individual, and is designed to meet the needs and preferences of the individual. The ISP is developed through a partnership between the individual and the provider and includes an individual's treatment plan, habilitation plan, person-centered plan, or plan of care.

"Informed consent" means the voluntary written agreement of an individual, or that individual's authorized representative, to surgery, electroconvulsive treatment, use of psychotropic medications, or any other treatment or service that poses a risk of harm greater than that ordinarily encountered in daily life or for participation in human research. To be voluntary, informed consent must be given freely and without undue inducement; any element of force, fraud, deceit, or duress; or any form of constraint or coercion.

"Local human rights committee" or "LHRC" means a group of at least five people appointed by the State Human Rights Committee. See 12VAC35-115-270 A for membership and duties.

"Neglect" means failure by a person, program, or facility operated, licensed, or funded by the department, excluding those operated by the Department of Corrections, responsible for providing services to do so, including nourishment, treatment, care, goods, or services necessary to the health,

safety, or welfare of an individual receiving care or treatment for mental illness, intellectual disability, or substance abuse. See § 37.2-100 of the Code of Virginia.

"Peer-on-peer aggression" means a physical act, verbal threat, or demeaning expression by an individual against or to another individual that causes physical or emotional harm to that individual. Examples include hitting, kicking, scratching, and other threatening behavior. Such instances may constitute potential neglect.

"Person centered" means focusing on the needs and preferences of the individual, empowering and supporting the individual in defining the direction for his life, and promoting self-determination, community involvement, and recovery.

"Program rules" means the operational rules and expectations that providers establish to promote the general safety and well-being of all individuals in the program and to set standards for how individuals will interact with one another in the program. Program rules include any expectation that produces a consequence for the individual within the program. Program rules may be included in a handbook or policies and shall be available to the individual.

"Protection and advocacy agency" means the state agency designated under the federal Protection and Advocacy for Individuals with Mental Illness Act (PAIMI) and the Developmental Disabilities Assistance and Bill of Rights Act (DD). The protection and advocacy agency is the disAbility Law Center of Virginia (dLCV).

"Provider" means any person, entity, or organization offering services that is licensed, funded, or operated by the department.

"Restraint" means the use of a mechanical device, medication, physical intervention, or hands-on hold to prevent an individual from moving his body to engage in a behavior that places him or others at imminent risk. There are three kinds of restraints:

1. Mechanical restraint means the use of a mechanical device that cannot be removed by the individual to restrict the freedom of movement or functioning of a limb or a portion of an individual's body when that behavior places him or others at imminent risk.
2. Pharmacological restraint means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when that individual's behavior places him or others at imminent risk and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.
3. Physical restraint, also referred to as manual hold, means the use of a physical intervention or hands-on hold to prevent an individual from moving his body when that individual's behavior places him or others at imminent risk.

"Restraints for behavioral purposes" means using a physical hold, medication, or a mechanical device to control behavior or involuntarily restrict the freedom of movement of an individual in an instance when all of the following conditions are met: (i) there is an emergency, (ii) nonphysical interventions are not viable, and (iii) safety issues require an immediate response.

"Restraints for medical purposes" means using a physical hold, medication, or mechanical device to limit the mobility of an individual for medical, diagnostic, or surgical purposes, such as routine dental care or radiological procedures and related postprocedure care processes, when use of the restraint is not the accepted clinical practice for treating the individual's condition.

"Restraints for protective purposes" means using a mechanical device to compensate for a physical or cognitive deficit when the individual does not have the option to remove the device. The device may limit an individual's movement, for example, bed rails or a gerichair, and prevent possible harm to the individual or it may create a passive barrier, such as a helmet to protect the individual.

"Restriction" means anything that limits or prevents an individual from freely exercising his rights and privileges.

"Seclusion" means the involuntary placement of an individual alone in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical or verbal means, so that the individual cannot leave it.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician.

"Services" means care, treatment, training, habilitation, interventions, or other supports, including medical care, delivered by a provider licensed, operated or funded by the department.

"Services record" means all written and electronic information that a provider keeps about an individual who receives services.

"State Human Rights Committee" or "SHRC" means a committee of nine members appointed by the board that is accountable for the duties prescribed in 12VAC35-115-270 C.

"Time out" means the involuntary removal of an individual by a staff person from a source of reinforcement to a different, open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.

"Treatment" means the individually planned, sound, and therapeutic interventions that are intended to improve or maintain functioning of an individual receiving services delivered by providers licensed, funded, or operated by the department. In order to be considered sound and therapeutic, the treatment shall conform to current acceptable professional practice.