



COMMONWEALTH of VIRGINIA

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MEMORANDUM

To: DBHDS Operated Facilities
From: Taneika Goldman, State Human Rights Director
Date: February 7, 2022
RE: Uses of isolation, quarantine, and seclusion in state operated facilities

During this time of heightened awareness regarding the worldwide COVID-19 pandemic, in an effort to support state operated facilities and in keeping with our mission to promote the basic precepts of human dignity, the following is being issued on behalf of the Office of Human Rights (OHR). The information provided in this Memo is regarding the use of isolation and quarantine relative to facility policies and the Human Rights Regulations, 12VAC35-115-10 et seq.

Definitions

"Isolation" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are infected with or are reasonably suspected to be infected with a communicable disease in order to prevent or limit the transmission of the communicable disease to other uninfected and unexposed individuals. [12VAC5-90-10](#)

"Quarantine" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are present within an affected area or who are known to have been exposed or may reasonably be suspected to have been exposed to a communicable disease and who do not yet show signs or symptoms of infection with the communicable disease in order to prevent or limit the transmission of the communicable disease of public health threat to other unexposed and uninfected individuals. [12VAC5-90-10](#)

"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. [12VAC35-115-30](#)

While seclusion, isolation, and quarantine have similarities in that they all involve separating an individual from others, there are also key differences. According to the [Centers for Disease Control and Prevention](#), “isolation” and “quarantine” help protect the public by preventing exposure to people who have or may have a contagious disease. Isolation separates sick people with a contagious disease from people who are not sick, while quarantine separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick. Seclusion, on the other hand, refers to the involuntary placement of an individual in a room that is locked, or otherwise secured, so that the individual cannot leave. Seclusion is generally employed for behavioral issues rather than preventing illness. In addition, seclusion by definition is involuntary, while isolation and quarantine are not necessarily so.

A “restriction” under the Human Rights Regulations is anything that limits or prevents an individual from freely exercising his rights and privileges. This may include the right to move within the services setting. State operated facilities do have authority, however, to restrict an individual’s freedom to the extent necessary to maintain a safe and orderly environment, and other individuals receiving services from the facility also have a right to be protected from harm and live in an environment that is safe and sanitary. If a restriction is implemented pursuant to the Human Rights Regulations, certain requirements must be met. By nature, isolation and quarantine are restrictive, but they are being done in accordance with public health guidance.

If a facility isolates an individual or an individual is placed in quarantine after admission and during the course of treatment at a state operated facility, the facility should:

- Explain how the isolation or quarantine will be implemented to the individual and their Authorized Representative, if applicable, and the circumstances that will end the isolation or quarantine;
- Document a conversation with the qualified healthcare professional recommending isolation or quarantine for the individual in the individual’s services record;
- Indicate the symptoms or circumstances that warrant isolation or quarantine;
- Notify the assigned Facility Advocate via email; and
- Comply with any internal policies, such as those specific to emergencies and infectious disease control

In the event that a state operated facility is not able to enlist the voluntary agreement of an individual to isolate or quarantine, and the isolation or quarantine cannot be enforced without locking the individual in a defined space alone, it would technically meet the definition of seclusion in the Human Rights Regulations. In such circumstances, the facility should endeavor to meet all of the regulatory requirements for seclusion. In the event that it is determined possible for an individual to remain as the only patient on a locked unit due to the need for isolation or quarantine, this would not meet the definition of seclusion, if the use of isolation or quarantine is a direct response to addressing the public health situation and not a behavior intervention, the unit is appropriately staffed and all necessary treatment services remain in place.

If the instance of isolation or quarantine is not voluntary and lasts longer than 7 days, the state operated facility must document the need for the restriction in the individual's services record and seek review by the Local Human Rights Committee per [12VAC35-115-100](#).

State Operated Facility Policies

To facilitate voluntary cooperation with isolation or quarantine, it is recommended that each facility establish clear policies that describe what isolation and quarantine are, under what circumstances they will be utilized, and the alternatives that are available should an individual refuse to agree to isolation or quarantine. These policies may include deference to the facility's local health department requirements or other authorities with oversight or relevant guidelines specific to management of infectious disease. These policies should also be made available to individuals and their authorized representatives in advance, along with the opportunity to discuss any concerns or objections that they may have, in order to facilitate understanding and cooperation should isolation or quarantine become necessary.

With respect to the management of new admissions, if a facility determines to treat all newly admitted individuals as if they have been recently exposed to COVID-19 as a strategy to mitigate potential introduction of COVID-19 into the facility as a universal precaution, this process should be outlined in facility policy and would not require additional documentation.

It is also understood that all state operated facilities have and implement policies and procedures that address emergencies. Emergency is defined as a situation that requires a person to take immediate action to avoid harm, injury, or death to an individual or to others [12VAC35-115-30]. As such, state operated facility policies and procedures that address emergencies shall:

- Identify what caregivers may do to respond to an emergency;
- Identify qualified clinical staff who are accountable for assessing emergency conditions and determining the appropriate intervention;
- Require that the director immediately notify the individual's authorized representative and the advocate if an emergency results in harm or injury to any individual; and
- Require documentation in the individual's services record of all facts and circumstances surrounding the emergency [12VAC35-115-60].

Isolation, quarantine, and seclusion are distinct actions used for different purposes, and it is best if state operated facilities make the distinction among them in their policies, protocols and communications, to the greatest extent possible. Any new policy or change to an existing policy that impacts the rights of individuals receiving services will require review by OHR in accordance with 12VAC35-115-260(A)(9).

Individual's Right to Complain

In any instance described herein, any individual or Authorized Representative, if applicable, who believes his or her rights have been violated can make a complaint directly with the state operated facility or through the Human Rights Advocate.

We appreciate your tireless commitment to the safety of the individuals in our service delivery system and your staff, and we acknowledge your ongoing heroics during the COVID-19 pandemic. If you have questions regarding the information in this memo, please contact your assigned Facility Advocate.