A picture containing text, clipart

Description automatically generated

**Instructions for LHRC Review of Consent and Authorization:**

All provider requests for review by the LHRC in accordance with 12VAC35-115-270 must go through the Office of Human Rights using a standard form and process.

Providers are responsible for ensuring the protection of individuals PHI by using an “Individual Identifier”, listed as the individuals first and last name *initials* in the space provided on the LHRC Review Request Form. **All documents submitted for review should be appropriately \**redacted* by the provider (\*removal of or unreadable Personal Identified Information (PII) or Protected Health Information (PHI).** When PII or PHI is necessary to the review process, the LHRC will conduct the review with the provider and all parties involved in Executive Closed session.

The LHRC Chairperson will sign the LHRC Review Request Form and give a copy to the provider following the LHRC meeting. An electronic signature is acceptable. The final signed version should be maintained in the individual's services record. When applicable, LHRC recommendations will be listed on the LHRC Review Request Form and reflected in the LHRC meeting minutes. The provider Director or designee is responsible for addressing any LHRC recommendations and communicating compliance through the assigned Advocate and filing this form in the individual’s services record, in accordance with the corresponding Human Rights Regulations. Providers should direct questions regarding this process to the assigned Advocate.

The Provider will notify the Advocate of any appeal request. If the LHRC decision cannot be appealed the Advocate will notify the relevant party (provider, individual or AR). If the LHRC decision can be appealed, the Advocate will obtain a statement of disagreement from the appealing party and include it with this completed form and original LHRC packet. New evidence will not be introduced during the SHRC review. The SHRC will complete the relevant section and it will be returned to the provider Director or designee for filing in the individual’s services record as well as implementing any recommendations from the SHRC.

**Attachments should include the following (see also 12VAC35-115-200):**

*Note: The Advocate may require the submission of additional documentation to facilitate any LHRC review.*

**Section A:**

* Evidence of AR Appointment
* Evidence that individual’s preference was obtained and considered
* Written statement from Individual about the reason(s) for the objection

**Section B (as applicable):**

* Copy of Provider’s Capacity Evaluation
* Evidence of AR Appointment
* Written statement from Individual about the reason(s) for the objection
* Written summary from Provider of the proposed treatment consented to by the AR.
* Provider documentation specific to how the AR took the individual‘s basic values and preferences into account when making the decision, or that the decision was made in the individual’s best interest if their preferences or basic values are unknown.

**Section C:**

* Copy of Independent Capacity Evaluation*, if applicable*
* Copy of Provider’s Capacity Evaluation (if capacity evaluation is part of a comprehensive assessment, only the portion which evidences the capacity evaluation is required)
* Written summary from provider about the proposed decision/action
* Written statement from Individual about reason(s) for objection

For general questions about the LHRC Review process, contact the OHR Regional Manager in your area:

Region 1: Cassie Purtlebaugh [cassie.purtlebaugh@dbhds.virginia.gov](mailto:cassie.purtlebaugh@dbhds.virginia.gov)

Region 2: Diana Atcha [diana.atcha@dbhds.virginia.gov](mailto:deborah.lochart@dbhds.virginia.gov)

Region 3: Mandy Crowder [mandy.crowder@dbhds.virginia.gov](mailto:mandy.crowder@dbhds.virginia.gov)

Region 4: Andrea Milhouse [andrea.milhouse@dbhds.virginia.gov](mailto:andrea.milhouse@dbhds.virginia.gov)

Region 5: Latoya Wilborne [latoya.wilborne@dbhds.virginia.gov](mailto:latoya.wilborne@dbhds.virginia.gov)

Facilities: Brandon Charles [brandon.charles@dbhds.virginia.gov](mailto:brandon.charles@dbhds.virginia.gov)

For information about LHRC meeting dates, times and locations by Region:

<http://www.dbhds.virginia.gov/quality-management/human-rights>

**Consent and Authorization for LHRC Review**

**Section 1 – To be completed by the Provider**

|  |  |
| --- | --- |
| Individual’s Identifier (*First and Last initials only*): | Type here |
| Provider Name & Contact Information (*email or phone*): | Type here |
| Date of Request: | Click here to select date |

|  |
| --- |
| Reason for LHRC Review |
| *Please review the section below and select the appropriate option(s) for LHRC review. Indicate that all required supporting documents have been attached by checking the applicable boxes.* |
| 1. An individual has an objection regarding the appointment of a specific person as an Authorized Representative (AR), other than a legal guardian. [12VAC35-115-200(A)(1)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/)   *If this box is checked, the LHRC will complete Section 2(A) – Objection of AR Appointment.*   * + Provider should attach the following documents:   Evidence of AR Appointment  Evidence that individual’s preference was obtained and considered  Written statement from individual about the reason(s) for the objection |
| 1. An individual has an objection regarding any decision for which consent or authorization is required and has been given by the AR, other than a legal guardian. [12VAC35-115-200(A)(2)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/)   *If this box is checked, the LHRC will complete Section 2(B) – Objection of AR Decision.*   * + Provider should attach the following documents (if applicable):   Copy of Provider’s Capacity Evaluation  Evidence of AR Appointment  Written statement from individual about the reason(s) for the objection  OR  An individual believes that a decision made by the AR, other than a legal guardian, was not made based on the individual’s basic values and any preferences previously expressed by the individual.  [12VAC35-115-200(A)(3)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/)  *If this box is checked, the LHRC will complete Section 2(B) – Objection of AR Decision*   * + Provider should attach the following documents:   Written summary from Provider of the proposed treatment consented to by the AR.  Written statement from individual about the reason(s) for the objection  Provider documentation specific to how the AR took the individual’s basic values and preferences into account when making the decision, or that the decision was made in the individual’s best interest if their preferences or basic values are unknown |
| 1. An individual or the individual’s family member objects to the results of the licensed professional’s capacity determination. [12VAC35-115-145(5)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section145/)   *If this box is checked, the LHRC will complete Section 2(C) – Disagreement with Provider’s Capacity Determination.*   * + Provider should attach the following documents:   Copy of Independent Capacity Evaluation, if applicable  Copy of Provider’s Capacity Evaluation  Written summary from provider about the proposed decision/action  Written statement from individual about reason(s) for objection |

**Section 2 – To be completed by the LHRC**

***Please complete the corresponding items below as indicated in Section 2.***

|  |  |
| --- | --- |
| 1. **Objection of AR Appointment** | |
| The AR was properly designated according to individual preference, hierarchy and process outlined in [12VAC35-115-146(B)(1)(b)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section146/). | Yes  No |
| The LHRC reviewed the individual’s reasoning for objecting to the AR’s appointment. | Yes  No |
| There is documentation demonstrating that the individual’s preferences were identified and considered in the appointment of the AR. | Yes  No  *Exceptions: Individual has attorney-in-fact, health care agent or legal guardian, appointment is clinically contraindicated, or individual did not have a preference.* |
| The providers’ action for which consent or authorization is required occurred in an emergency or as otherwise permitted by law. | Yes  No  N/A |
| 1. **Objection of AR Decision** | |
| The individual’s capacity was properly evaluated according to [12VAC35-115-145(4)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section145/). | Yes  No |
| The AR was properly designated according to individual preference, hierarchy and process outlined in [12VAC35-115-146(B)(1)(b)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section146/). | Yes  No |
| The LHRC reviewed the decision made by the Provider, based on consent from the AR. | Yes  No |
| The LHRC reviewed the individual’s reasoning for objecting to the AR’s decision. | Yes  No |
| There is documentation demonstrating that the individual’s basic values and preferences were known by the AR. | Yes  No |
| If the individual’s basic values and preferences were known by the AR, there is documentation demonstrating this was the basis for the AR’s decision. | Yes  No |
| If the individuals’ basic values and preferences were not known by the AR, there is documentation demonstrating the AR’s decision was made in the individual’s best interest. | Yes  No |
| 1. **Disagreement with Provider’s Capacity Determination** | |
| The individual’s capacity was properly evaluated according to [12VAC35-115-145(4)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section145/). | Yes  No |
| The LHRC reviewed the individual’s reasoning for objecting to the Provider’s Evaluation. | Yes  No |
| Based on the information provided, and in accordance with [12VAC35-115-200(A)(2)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/), the LHRC has determined that the following evaluation will control, if applicable: | Provider Evaluation  Independent Evaluation  N/A |

|  |
| --- |
| LHRC Recommendations and Acknowledgments |
| Based on the information provided and authority granted to the LHRC by [12VAC35-115-200(A)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/): |

**The LHRC finds that the Authorized Representative’s decision was made based on the individual’s basic values and preferences (to the extent that they were known), or in the individual’s best interest.**

As a result, the Provider may proceed according to the decision of the AR. The individual does not have the right to appeal this decision to the SHRC per [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/).

**The LHRC finds that the Authorized Representative’s decision was not made based on the individual’s basic values and preferences or in the individual’s best interest.**

As a result, the Provider shall take steps to remove the AR pursuant to [12VAC35-115-146](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section146/). This decision is not appealable to the SHRC per [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/).

**The LHRC finds that the individual’s capacity was properly evaluated.**

As a result, the Provider may begin or continue treatment immediately based on the consent of the AR. The individual may appeal this determination to the SHRC under [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/).

**The LHRC finds that the individual’s capacity was not properly evaluated.**

As a result, the provider shall not begin and/or continue any treatment without the individual’s consent, effective immediately. The Provider may appeal this determination to the SHRC under [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/) but may not take any further actions until the SHRC issues its opinion.

**The LHRC finds need for a physician or licensed clinical psychologist not employed by the provider to evaluate the individual at the provider’s expense and give an opinion about the individual’s capacity to consent to treatment or to authorize disclosure of information.**

As a result, the Provider shall not begin and/or continue any treatment (except in an emergency) effective immediately. The Provider may appeal this determination to the SHRC under [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/) but may not take any further actions until the SHRC issues its opinion. The Provider will submit the independent evaluation to the LHRC through the Advocate for review.

**The LHRC finds that the opinion of the evaluator who conducted the Independent Evaluation conflicts with the opinion of the Provider’s evaluator and has determined that the Independent Evaluation will control.**

As a result, the Provider shall not begin and/or continue any treatment without the individual’s consent, effective immediately. The Provider may appeal this determination to the SHRC under [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/) but may not take any further actions until the SHRC issues its opinion.

**The LHRC finds that the opinion of the evaluator who conducted the Independent Evaluation conflicts with the opinion the Provider’s evaluator and has determined that the Provider’s Evaluation will control.**

As a result, the Provider may begin or continue treatment immediately based on consent obtained from an appropriately appointed AR. The individual appeal this determination the SHRC under [12VAC35-115-210](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section210/).

|  |
| --- |
|  |

Name of LHRC LHRC Chairperson Signature Date

**Section 3 – To be completed by the Advocate for SHRC Appeal Review**

***The Advocate submitting the appeal will check the type of review being requested.***

The LHRC’s findings of fact and recommendations that the individual’s capacity was or was not properly evaluated.

The LHRC’s findings of fact and recommendations related to whether the provider capacity evaluation or independent capacity evaluation will control. [12VAC35-115-200(A)(2)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/)

The LHRC’s findings of fact and recommendations related to whether a decision made by the provider required consent from the individual or his authorized representative, that was not obtained. [12VAC35-115-200(A)(3)](https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section200/)

**Section 4 –To be completed by the SHRC: Appeal Review and Recommendations**

***The SHRC Chairperson will complete this section following the review of the LHRC packet and statement of disagreement by the appealing party.***

The findings of facts and recommendations by the LHRC are upheld.

The findings of facts and recommendations by the LRHC are overturned.

**NOTE: The SHRC will issue written findings to all involved parties within 20 working days of the date of the SHRC Review.**