

POLICY AND PROCEDURE CONCERNING HUMAN AND LEGAL RIGHTS COMMITTEE

I. PURPOSE:

The Human and Legal Rights Committee shall review and take action in accordance with this policy and procedure in matters of alleged incidents of mistreatment, neglect, abuse, exploitation, compromise of individual rights; or situations in which restraints, psychotropic medications, restrictive or aversive techniques are used. This procedure is written to comply with Title 175 Chapter 3 005.05, and Title 205 Chapter 4 014.02 through 014.08 regulations.

II. AUTHORITY:

This policy and procedure is implemented with the approval of the Governing Board and/or its designee.

III. PROCEDURAL DIRECTIVES:

A. Committee Composition

1. Membership:

The membership of the Committee shall be at least six (6), a minimum of two thirds of which shall be non-provider staff. Members will include:

- The Program Specialist as Chairperson
- The Director of Program Development shall act as secretary to the Committee
- At least two (2) people with a developmental disability
- At least one (1) person who is a close relative of a person with a developmental disability
- A professional qualified to evaluate proposals for the use of medications to manage behaviors
- Others may be asked to serve as members

NOTE: At any time there is potential for conflict of interest, the member(s) involved will be excused from the meeting for the specific agenda item and will not participate in action on that issue.

2. Appointment:

The Chief Executive Officer will appoint members to the Committee in June of each year. Members will serve for one (1) year. Members may serve successive terms.

3. Meetings:
 - a. Meetings will be held on an **at least** monthly basis.
 - b. The Committee will utilize Robert's Rules of Order as a guide in conducting meetings.
 - c. A quorum will consist of one-half of the membership, at least one of whom is not an agency employee.
4. Minutes will document the Committee's disposition of each agenda item. They will be written so that the identity of those involved will remain confidential. Copies of meeting minutes will be distributed to each member, each area program, and the Long Term Care Administrator. In the case of Abuse & Neglect allegation reviews, minutes will be provided only to the specific area program.
5. Training for New Members:

An orientation will be completed with new members. All members will be provided with the Policies and Procedures listed below:

- Policy and Procedure Concerning Abuse and Neglect
- Policy and Procedure Concerning Plans for Developing Adaptive Behavior
- Policy and Procedure Concerning Due Process Committee
- Policy and Procedure Concerning Human and Legal Rights Committee
- Policy and Procedure Concerning Incident Reports
- Policy and Procedure Concerning Rights of Individuals served

Members will be informed of additional information and training opportunities as they become available. They will also be provided access to the agency Policy and Procedure Manual. Members will also be offered the opportunity to attend the following inservices:

- Medication Aide
- Preventing and Resolving Aggressive Behavior
- Training for Support Services
- Program Development

B. Human and Legal Rights Committee Review

1. The Human and Legal Rights Committee will review:
 - a. All support programs/intervention plans which use restrictive procedures **or** which address behaviors/symptoms for which medications are prescribed for behavior modification, mental illness and/or depression

See: *Appendix D Restrictive Procedures of the Policy and Procedure Concerning Plans for Developing Adaptive Behaviors*

- b. Psychotropic medication (medication prescribed for behavior modification, mental illness and/or depression) using information from the Med 21 *Notification of Behavior Modifying Medication Orders to Human and Legal Rights Committee*. The use of these medications is considered to be a restriction according to current regulations and due process must be followed.

The Human and Legal Rights Committee will not review medication prescribed for people who meet the following four criteria:

- they do not live in an agency-operated setting
- the agency does not provide medical support
- agency staff does not assist in the administration of medication, and
- the symptoms/behaviors for which the medication is prescribed is not seen while the agency is providing support

- c. All rights restrictions, including any actions that are identified by the person receiving services, legal guardian, agency staff member, or IPP Team members as a possible rights restriction.

See: *Policy and Procedure Concerning Individual Rights*

- d. All allegations of abuse and neglect.

2. The restrictions listed above must be authorized by individual IPP teams, and approved by the local Due Process Committee **prior** to the review by the Human and Legal Rights Committee. The Human and Legal Rights Committee needs to review these prior to implementation.

Allegations of abuse and neglect need to be reviewed by the Due Process Committee, **prior** to the review of the Human and Legal Rights Committee.

3. The Chairperson (or designee) should be contacted regarding interim approval, if needed.
4. The Committee shall have full and free access to all information necessary to fulfill these obligations.
5. An agenda will be provided to each area program, prior to the Human and Legal Rights Committee meeting. Agenda items may be added or deleted at the discretion of the Committee or the presenting area program.

6. All referrals to the Human and Legal Rights Committee will be submitted on the *H & L 1 - Human and Legal Referral Form* (Appendix A).
7. As circumstances warrant, a Sub-Committee of the Human and Legal Rights Committee may be assigned the following duties, on a month by month basis:
 - Two year reviews of support program and intervention plans, with medication if applicable
 - Revisions of support programs and intervention plans that are less restrictive
 - Allegations of person served to person served abuse or allegations of self abuse
 - Any other items at the Committee's discretion

C. Process for Review of Support Programs/Intervention Plans

1. Responsibilities of Area Programs
 - a. The support program(s) will be documented according to the format outlined in the *Policy and Procedure Concerning Plans for Developing Adaptive Behaviors* and the intervention plan(s) will be documented according to *Appendix A – Intervention Plans of the Policy and Procedure Concerning Adaptive Behavior*.
 - b. Information to be considered for the agenda must be received **at least one week** in advance.
 - c. Area Program staff will be available to present information and answer questions for the Committee.
2. Responsibilities of Human and Legal Rights Committee
 - a. Support Programs

The Committee will evaluate the support program for the presence of the following technical components:

 - An assessment tool to evaluate the function/purpose of the behavior targeted for change
 - The desired behavioral goal and objectives which teach circumstances under which the behavior can be exhibited adaptively and/or provisions to teach the individual how to replace or channel into similar but adaptive expression
 - The method to be used
 - The schedule
 - Data to be collected
 - Staff response to appropriate behaviors
 - Staff response to unwanted behavior

- Staff authorized to implement and monitor the support program as specified in regulation.
- Attainability of the support program

See: *Policy and Procedure Concerning Plans for Developing Adaptive Behaviors*

In addition to the technical components of the support program the Committee's review will also consider the following ethical issues:

- Does it recognize individual rights and choices?
- Do the alternative behaviors help this individual meet the same needs, express the same feelings and obtain what he/she wants in a more efficient manner than the unwanted behavior?
- Do the responses increase the likelihood the person will choose alternate behaviors to obtain the desired outcome?
- Is the motivation for modifying this behavior - person centered and outcome based?

b. Intervention Plans

An intervention plan may be written in the following situations:

- There is no function/purpose of the behavior that can be determined other than as a symptom of a documented mental illness. This would include but is not limited to, depression, schizophrenia, ADD, ADHD, bi-polar, OCD, dementia, etc.
- Medication is prescribed for behaviors but they occur less than 3 times in a 6 month period, and are low intensity
- Other situations involving behaviors with low frequency and low intensity (for example, criterion has been met on a support program)

NOTE: The determination to write an intervention plan can only be made in consultation with the Chairperson of the Human and Legal Rights Committee.

The Committee will evaluate the intervention plan for the presence of:

- Clearly identified purpose of the medication(s)
- Clearly identified medical diagnosis
- Assessment/baseline information to indicate frequency/ presence of behaviors
- Supportive action related to medication, diagnosis and/or behaviors

- c. The Committee will review the support program/intervention plan and take one of the following actions:
 - Approve the support program/intervention plan as written
 - Conditionally approve the support program/intervention plan with changes to be implemented
 - Give or extend interim approval with a request that the support program/intervention plan, with changes specified, be returned to the Committee prior to implementation
 - Request that the individual's IPP team meet to readdress specific items of concern, prior to submission of a revised support program/intervention plan for consideration. This may or may not include interim approval.

3. Follow-Up

- a. Support programs/intervention plans which do not receive approval or receive approval contingent on inclusion of revisions in the motion must be re-submitted as stipulated in the Human and Legal Rights Committee meeting minutes.
- b. Area program staff are responsible for requesting team meetings or other activity necessary to meet implementation regulations.

D. Process for Review of Psychotropic Medications Prescribed for Behavior Modification, Mental Illness and/or Depression

1. Responsibilities of Area Programs

- a. Psychotropic medications (medications prescribed for behavior modification, mental illness and/or depression) will be documented on a Med 21 Notification of Behavior Modifying Medication Orders to Human and Legal Rights Committee form

See: *Guidelines for Use of Med 21* (in the Medication Procedure Manual)

- b. The support program/intervention plan developed to address the behaviors/symptoms for which medications are prescribed must be submitted with the Med 21 for final approval.
- c. Information to be considered for the agenda must be received **at least one week** in advance.
- d. Area Program staff will be available to present information and answer questions for the Committee.

2. Responsibilities of Human and Legal Rights Committee

- a. The Committee will review the information and evaluate the medications prescribed for behavior modification, mental illness and/or depression in relation to:
 - The information presented
 - Known health issues
 - Known side effects
 - Potential health concerns
- b. The Committee will take one of the following actions:
 - Approve the use of the medication with no further follow up
 - Approve the use of the medication, while requesting additional follow up or information
 - Give or extend interim approval and request additional follow up or information, knowing that the medication must be administered as ordered by a licensed physician
 - Withhold approval and request additional follow up or information, knowing that the medication must be administered as ordered by a licensed physician

3. Follow-Up

Any information requested by the Human and Legal Rights Committee will be submitted as stipulated in the minutes.

E. Process for Review of Rights Restrictions

1. Responsibilities of Area Programs

- a. Rights Restrictions will be documented on the Rights Restriction form (*See Appendix B of the Policy and Procedure Concerning Individual Rights*).
- b. Information to be considered for the agenda must be received **at least one week** in advance.
- c. Area Program staff will be available to present information and answer questions for the Committee.
- d. If any person suspects that a right has been restricted without due process it will be reported to the Chairperson of the Human and Legal Rights Committee for review. **Any unauthorized rights restrictions will be considered abuse and neglect.** Examples may include a possession stored out of the reach of its owner, staff carrying all petty cash when on an outing, limitations of phone calls and community access, etc.

NOTE: Proposed restrictions may receive interim approval from the Chairperson of both the Due Process Committee and the Human and Legal Rights Committee for implementation immediately upon consent of the individual and/or guardian. Interim approval will be given **only** in emergency instances when such action is needed to protect the safety of the individual and others. The Interim Approval will be documented on the Rights Restriction Form.

2. Responsibilities of Human and Legal Rights Committee

a. The Committee will review the rights restriction and accompanying information, in relation to:

- The thoroughness of the information presented
- The severity of the behavior versus the intensity of the restriction
- The appropriateness of the plan to reinstate the right

b. The Committee will take one of the following actions:

- Approve the restriction and the plan to reinstate the right
- Approve the restriction and request that additional strategies be developed to reinstate the right
- Approve the restriction and request additional information
- Not approve the restriction

3. Follow-Up

Any information requested by the Human and Legal Rights Committee will be submitted as stipulated in the minutes.

F. Process for Review of Allegations of Abuse and Neglect

1. Responsibilities of Area Programs

a. Allegations of abuse and neglect will be documented according to the format outlined in the *Policy and Procedure Concerning Abuse and Neglect*

b. Information to be considered for the agenda must be received **at least one week** in advance.

c. Area Program staff will be available to present information and answer questions for the Committee.

2. Responsibility of Human and Legal Rights Committee

The Committee will review the investigation, findings and follow up actions and take one of the following actions:

- Accept the investigation and follow up without additional recommendations
- Accept the investigation, but make recommendations for additional follow up or request additional information
- Acknowledge receipt of the investigation and/or make arrangements for a separate investigation

3. Follow-Up

- a. Any information requested by the Human and Legal Rights Committee will be submitted as stipulated in the minutes.
- b. The Committee's findings will be shared with the person served, services coordination, guardian and/or chosen advocate, if applicable, by the area program.

See: *Policy and Procedure Concerning Abuse and Neglect*

G. Ongoing Reviews

Ongoing reviews by the Human and Legal Rights Committee will be completed as follows:

1. Each time significant changes are made in support programs/ intervention plans (the Chairperson of the Human and Legal Rights Committee should be consulted if there are questions)
2. Each time more restrictive interventions are proposed for a current support program or rights restriction
3. Each time medication is increased above the previously authorized maximum dosage
4. Each time changes are made in the wording of a long-term goal or title of an intervention plan
5. Annually for any rights restriction previously approved
6. Every two years for a support program/intervention plan that is still in place, along with any medications prescribed for behaviors/symptoms

4/99
8/01
7/05