

PROTOCOL NO. 205 ROLE OF THE COMMUNITY ADVOCATE IN COLLABORATING AND COORDINATING WITH THE OFFICE OF LICENSING CONCERNING ABUSE AND NEGLECT ALLEGATIONS	
Issued:	November 1, 2000
Revised:	February 11, 2002; November 4, 2014; February 4, 2016; October 1, 2016; September 1, 2018; January 2019; May 1, 2019; October 13, 2021
Formerly:	Protocol No. 109
Protocol:	The Office of Human Rights (OHR) and Office of Licensing (OL) will jointly coordinate, communicate, consult and monitor the investigations of abuse and neglect allegations in licensed programs.
Procedure:	<p>When the designated staff within the OL receives information from a provider or any source that alleges that an individual receiving services might have been abused or neglected, that staff will immediately notify the appropriate OHR Manager. The program must continue to provide detailed information about the allegation/complaint/incident, as it becomes available.</p> <p>Upon the receipt of the allegation of abuse or neglect, the Manager will make a determination whether a site visit is necessary based on a review of the following criteria:</p> <ol style="list-style-type: none"> <li>1. The severity of the allegation;</li> <li>2. The nature of the injury/harm to the individual(s); and/or</li> <li>3. The potential for injury/harm to any or all individuals in the program.</li> </ol> <p>When it is determined that a joint review of an allegation is warranted, the Licensing Specialist will conduct an investigation. The Advocate will conduct an independent review of human rights issues to determine compliance with the Human Rights Regulations (HRR) and assure the safety of the individual and any other individual in the program, in accordance with the A.I.M. protocol (<i>see Protocol 309</i>). The role of the Advocate in the independent review is to ensure that the human rights compliant process is managed appropriately by the provider.</p> <p><b>NOTE:</b> Whenever the Licensing Specialist makes a site visit to a provider as part of an investigation of abuse or neglect, the assigned Advocate shall be notified of the date and time of the visit. Additionally, when either office discovers, during the course of an ongoing complaint/investigation, that the facts seem to support an allegation of abuse or neglect, they will immediately notify their licensing or human rights counterpart.</p> <p>Each office must document plans for follow-up or investigation of an incident or allegation. OHR will maintain all complaint information, including those involving abuse and neglect, in CHRIS. Information about a site visit should be documented by the assigned Advocate in the Advocate Activities folder. When the provider sends their internal investigation report or Corrective Action Plan (CAP), the licensing and human rights staff will share the provider’s report with each other.</p> <p>When the Licensing Specialist has conducted an independent investigation of an incident, any determination of whether or not abuse and neglect occurred shall be in consultation with the assigned Advocate and based on the definitions found in the VAC § 37.1-1. It must also be determined whether the facts support violations of the Licensing Regulations or the Human Rights Regulations. The standard used for the determination of abuse or neglect is “preponderance of evidence.”</p> <p>When the Advocate has conducted an independent site review or completed monitoring and follow up of the complaint resolution process, the Advocate will enter a written report of the facts in the corresponding CHRIS report as well as notify the assigned licensing staff. (If a CHRIS report was NOT filed by the provider, the Advocate will direct that provider to enter the complaint/allegation into CHRIS immediately). The Advocate must indicate whether or not the facts support any violation of the HRR.</p>

Additional factors should be considered when determining if there is a violation.

1. Are there any Child Protective Services or Adult Protective Services findings?
2. Are there any findings by law enforcement agencies?

Note, however, a DBHDS finding is not dependent upon, and does not have to wait for these findings.

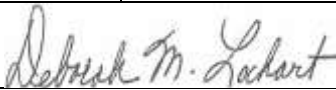
**The Advocate will provide the approved citation form for any recommended citations to the appropriate Licensing Specialist within five (5) working days of the violation being identified (see Protocol No. 316).** If circumstances related to health and safety warrant an immediate report, the Advocate will submit the report as soon as possible.

The Licensing Specialist will include the identified human rights violations that are sufficiently supported by facts, in the report to the provider. The provider is then responsible for developing a corrective action plan to address the licensing and human rights violation(s).

When there are questions or disagreements about the findings, the human rights and licensing staff shall resolve the differences through discussion involving supervisory staff, when necessary.

The Licensing Specialist will immediately share the provider's CAP with the Advocate. **The Advocate must provide feedback to the Licensing Specialist within five (5) working days of receipt of the CAP.** The Licensing Specialist shall not delay in providing a response to the provider's CAP and will copy the Advocate on corresponding follow-up (see Protocol No. 316).

Quality Assurance activities to address coordination, consultation, communication and monitoring between the OHR and OL related to abuse and neglect allegations will be ongoing and include a review of investigation and monitoring activities of OL and OHR staff by OL and OHR central office supervisory staff.



Deborah M. Lochart, State Human Rights Director

5/1/2019

Effective Date