



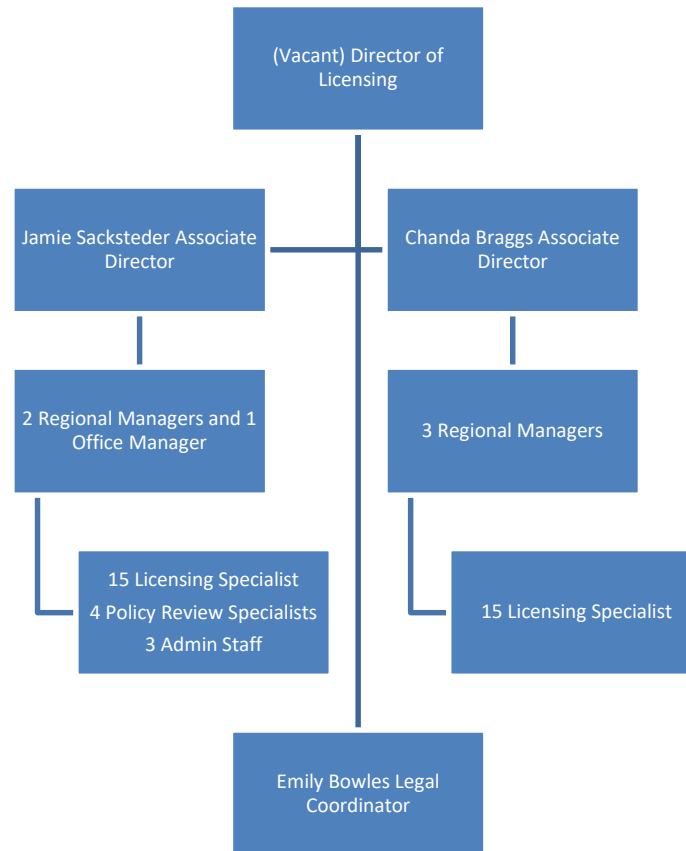
Virginia Department of
Behavioral Health &
Developmental Services

Office of Licensing Overview & Discussion

Virginia Association of Community-Based Providers (VACBP)

April 26, 2018

Organizational Structure



Mission and Vision

- **Office of Licensing Vision**: To be the regulatory authority for DBHDS licensed service delivery system through effective oversight.
- **Office of Licensing Mission**: The Office of Licensing will provide consistent, responsive, and reliable regulatory oversight to DBHDS licensed providers by supporting high quality services to meet the diverse needs of its clients.

Overview of Functions

- Mandates of VA Code
 - Conduct Annual Unannounced Inspections of each licensed service
 - Conduct Complaint Investigations as warranted
 - Renew Expired Licenses, if renewal applications are sent prior to expiration
 - Modify Licenses, as appropriate and when a service modification is received
 - Make licensing decisions regarding new services/providers
- OL licenses:
 - Roughly 45+ service types
 - Approximately 1400 providers
 - Over 3300 services
 - Over 7700 locations

Overview of Functions Cont'

- Licensing Specialists monitor services in the five regions of Virginia
 - All Licensing Specialists are responsible for the final approval of P&P, recommendations on types of licenses, investigating serious injuries, incidents, deaths, and complaints, renewing licenses, and issuing corrective action plans (CAPs), and reviewing service modifications.
 - Responsible for interpreting the DBHDS regulations
- Policy Review Specialists review new providers applications, policies and procedures (P&P) (Central Office)
- Licensing Administration Staff are responsible for reviewing all licensing renewals applications, service modification applications, and the issuing of licenses.
- The Legal Coordinator is responsible for the review of DBHDS regulations, policy review, review of negative actions, and FOIA requests.

Current Events

- The Office of Licensing is waiting for the final approval of the state budget to receive 9 new hires
 - 5 positions FY 2019
 - 4 positions FY 2020
- DOJ Emergency Regulation amendments were just approved by the State Board on 4/11/18.
 - These regulations received public comment are not yet finalized, they will still need to wait for the governor's approval.
- Periodic Review of Regulations are upcoming and are required every 4 years.

Enhanced Visits

- Unexpected Deaths and Serious Injuries/Incidents
- Significant Health and Safety CAP's
- Provisional License
- Conditional License

Purpose & What to Expect

- Compliance with Regulations
- The Office of Licensing are not consultants but Licensing Specialists can direct a provider to where you can gain technical assistance through other departments within DBHDS.
- Exit interviews are not required
 - Can schedule or request an exit interview with the specialist after the visit or before they leave but the Licensing Specialist is not required to do so.
- CAPS
 - A plan on how the provider will prevent the citation from occurring again.
 - How the citation was corrected, if applicable
 - Who is responsible for the corrective action
 - Date of implementation

Most Frequent Citations in TDT Services

580.B: The provider shall outline how each service offers a structured program of individualized interventions and care designed to meet the individuals' physical and emotional needs; provide protection, guidance and supervision; and meet the objectives of any required individualized services plan.

Examples

- Not providing or ensuring counseling is being provided as indicated in the TDT definition:
 - "Therapeutic day treatment for children and adolescents" means a treatment program that serves (i) children and adolescents from birth through age 17 and under certain circumstances up to 21 with serious emotional disturbances, substance use, or co-occurring disorders or (ii) children from birth through age seven who are at risk of serious emotional disturbance, in order to combine psychotherapeutic interventions with education and mental health or substance abuse treatment. Services include: evaluation; medication education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills; and **individual, group, and family counseling.**

How to be in compliance with the regulation

- The provider hire a LMHP or Supervisee/Resident that can provide counseling as defined and regulated by the DHP.
- The provider can contract or coordinate with a LMHP or Supervisee/Resident to provide counseling.
- In either situation the following will need to occur:
 - Documented in the ISP (665.A.9) who is providing counseling and frequency
 - Documentation of progress and implementation of the counseling (680)
- TDT services cannot be provided absent of counseling services, it is a required component of the service.
 - If counseling cannot be provided, then the provider should evaluate what kind of service is needed, if any.
- The frequency of counseling will need to be determined on an individual basis and through the individual's assessment.

Most Frequent Citation in TDT Services

- 680: The provider shall use signed and dated progress notes or other documentation to document the services provided and the implementation of the goals and objectives contained in the ISP.

Examples

- The ISP states that daily the client will work on anger management skills. However, this is not documented daily.
- The ISP states that the client receives individual counseling from an outside agency 1x a week. However, there is no documentation of the implementation of individual counseling.
- The progress notes state that the “client had a good day today and the TDT worker praised the client” however it shows on the progress note that 6 hours of interventions were given to the client without any evidence of 6 hours of interventions occurred or that any interventions occurred.

How to be in compliance with the regulation

- Ensure there is documentation that shows the implementation of the goals and objectives written within the ISP.
- Ensure that the progress notes or other documentation are dated and signed
- Ensure that the times that are stated by the TDT worker for interventions/services provided shows enough evidence within the progress notes that interventions were occurring in the amount of time documented.

Most Frequent Citation in TDT Services

- 675.B: The provider shall update the ISP at least annually. The provider shall review the ISP at least every three months from the date of the implementation of the ISP or whenever there is a revised assessment based upon the individual's changing needs or goals. These reviews shall evaluate the individual's progress toward meeting the plan's goals and objectives and the continued relevance of the ISP's objectives and strategies. The provider shall update the goals, objectives, and strategies contained in the ISP, if indicated, and implement any updates made.

Examples

- There is no evidence within the client's chart of an annual reassessment of the ISP.
- There is no evidence within the client's chart of quarterly review of the client's ISP.
- The quarterly review that is available does not evaluate the individual's progress towards the goals and objectives.
- The quarterly review indicates an irrelevance or lack of progress of the goals and objectives within the client's ISP but there is no re-assessment or no change in the client's ISP.

How to be in compliance with the regulation

- Providers shall demonstrate that a process is in place to ensure that ISP reviews are being updated at least annually and when individuals' needs change. This includes the following written documentation:
 - That goals and objectives and related services and supports are reviewed and updated to reflect changing needs of individuals receiving services.
 - That accomplished ISP goals/objectives were discussed with the individual receiving services, were removed from the ISP, and any new or modified goals/objectives were developed using an informed choice process.
 - That goals/objectives that are not on track to be accomplished by the targeted date were discussed with the person being served and removed or modified using an informed choice process
 - That, for goals/objectives that were not accomplished by the identified target date, the team met to review the reasons for lack of progress and to provide the individual an opportunity to make an informed choice of how to proceed.
- Providers shall demonstrate that data related to goals, objectives in ISPs are being reviewed at least every 3 months and that determinations are being made that individuals met or are on track to meet the outcomes/objectives by specified dates.

Most Frequent Citation for MHSB services

- 675.B and 680 were also the top 2 citations for MHSB services
- 665.A.1: A. The comprehensive ISP shall be based on the individual's needs, strengths, abilities, personal preferences, goals, and natural supports identified in the assessment. The ISP shall include:
 - 1. Relevant and attainable goals, measurable objectives, and specific strategies for addressing each need;

Examples

- The goals written are unattainable based on the individual's assessment
- The objectives written are not measurable
- The strategies listed to accomplish goals are not person-centered and are not specific
- The goals listed are “cookie cutter” and are not person-centered based on the individual's assessment

How to be in compliance with the regulation

- Providers shall demonstrate that ISPs include information specified in 12VAC35-105-665 items A through C.
 - The ISP has been developed by the individual with support from the treatment/support team that may include the individual, the provider, the case manager/support coordinator, the individual's authorized representative, as applicable, and other individuals who have been selected by the individual; and
 - Target dates for completion of goals/objectives are the actual date by which the goal/objective is expected to be completed. Note: Setting the dates to correspond with the end of the plan year or authorization period is not an acceptable practice.
- Providers shall demonstrate that a process is in place to ensure that ISPs are clearly related to individuals' stated reasons for seeking services and to their assessed needs for specific services and supports to achieve his or her desired outcomes. This includes the following written documentation that:
 - The ISP includes the individual's reasons for seeking services and his or her desired outcomes and reflects services and supports (paid and unpaid) that will assist the individual to achieve his identified goals;
 - Individuals receiving services have been provided the opportunity to make informed choices about the services and supports identified in their ISPs (e.g., completed consent for treatment/choice forms);
 - Each service and support identified in the ISP is clearly related to the listed desired outcomes, derived from an assessed clinical and/or support need, and tied specifically to a specific written goal and objective;
 - The ISP reflects risk factors and measures that will be in place to minimize them in applicable plans (e.g., behavioral support or treatment plan, safety plan, or crisis response or relapse plan). This includes individualized back-up plans and strategies when needed;
 - The ISP includes a description of how services or supports will address assessed clinical/support needs, the target dates for completion of each goal and objective and related services or supports, and data to be collected that will verify that an outcome has been achieved;
- Data that is gathered may vary in type, intensity, methodology, and frequency according to the description in the individual's ISP (dependent on the need and intervention but must be object and verifiable data); and
 - Each specific written goal and objective has a specific targeted outcome that will trigger the discontinuation of that goal or objective and related services or supports when achieved.

Most Frequent Citation for MHSB services

- 880.C: Entries in the individual's record shall be current, dated, and authenticated by the persons making the entries. For paper records, errors shall be corrected by striking through and initialing the incorrect information. If records are electronic, the provider shall implement a written policy to include the identification of errors and corrections to the record.

Examples

- There scribbles, mark outs and white out used throughout the paper record without initialing the corrected information.
- The provider has an electronic record but no policy that states on how the provider will correct errors within the electronic record.
- There is evidence within the file that information has been changed but documents have not been updated to reflect the change. For example: a progress note states that the client has moved but there is no update on the face sheet in regards to the client's new address.

How to be in compliance with the regulation

- When making corrections within a paper file, strike out using one line and then initial.
- Ensure there is a policy for both paper and electronic files on how to make corrections and updates within the client file.
- The provider shall implement a review process to evaluate both current and closed records for completeness, accuracy, and timeliness of entries. (920)

Most Frequent Citations for MHSB Services

- 660.B. The provider shall develop an initial person-centered ISP for the first 60 days for mental retardation (intellectual disability) and developmental disabilities services or for the first 30 days for mental health and substance abuse services. This ISP shall be developed and implemented within 24 hours of admission to address immediate service, health, and safety needs and shall continue in effect until the ISP is developed or the individual is discharged, whichever comes first.

Examples

- There is no evidence of an initial ISP within the client's file.
- The ISP was not developed within 24 hours of admission. The client was assessed on 1/1/18 however, the client did not receive services and was not admitted to MHSB until 1/21/18.
- The initial ISP is not person-centered and is “cookie cutter” and does not address immediate service, health, and safety needs of the individual.
- Every client's file that is reviewed has the same goals and objectives and is not person-centered.

How to be in compliance with the regulation

- The provider shall actively involve the individual and authorized representative, as appropriate, in the development, review, and revision of a person-centered ISP. The individualized services planning process shall be consistent with laws protecting confidentiality, privacy, human rights of individuals receiving services, and rights of minors. (660.A)
- The ISP must be completed and implemented within 24 hours of admission. The ISP cannot be “implemented” until services are received.
- The initial ISP is required to be person-centered and based upon the initial assessment.

Most Frequent Citations for IH services

- 660.B, 660.C, 665.A.1, 680, and 880.C were in the top of most frequently listed citations.
- (The same as TDT) 580.B: The provider shall outline how each service offers a structured program of individualized interventions and care designed to meet the individuals' physical and emotional needs; provide protection, guidance and supervision; and meet the objectives of any required individualized services plan.

Examples

- The service is not being provided according to the [IIH Guidance Document](#) released February 2013. Counseling by a LMHP or Supervisee/Resident is a required component of the service.
 - Yes, the same LMHP or Supervisee/Resident (if the client is receiving TDT and IIH, etc.) can provide the counseling required but there must be evidence within the ISP for each service, of who is providing the counseling and the frequency. There must also be documentation that the counseling is being implemented.
 - Just like TDT, IIH services cannot be provided without the component of counseling.
 - Frequency is determined by the individual's assessment.

How to be in compliance with the regulation

- Follow the [IIH Guidance Document](#) available on the DBHDS website.

Most Frequent Citations for IH services

- 450: The provider shall provide training and development opportunities for employees to enable them to support the individuals served and to carry out the responsibilities of their jobs. The provider shall develop a training policy that addresses the frequency of retraining on medication administration, behavior intervention, emergency preparedness, and infection control, to include flu epidemics. Employee participation in training and development opportunities shall be documented and accessible to the department.

Examples

- The provider does not have a policy on how often the employee needs retraining for a behavior intervention (TOVA, Mandt, etc.)
 - Or the policy does not adequately address the appropriateness of the frequency of retraining to address the needs of the population that is being served.
- The provider does not provide or document opportunities of development and/or training for employees to help support the individuals being served.

How to be in compliance with the regulation

- Create a policy that address the needs of the population being served.
- Create and document opportunities for employees to develop skills to meet the needs of the individuals being served.

Most Frequent Citations for IH services

- 430.A. Employee or contractor personnel records, whether hard-copy or electronic, shall include:
 5. Results of reasonable efforts to secure job-related references and reasonable verification of employment history;

Examples

- The employee is claiming to a QMHP-C however, there is no evidence within the employee's file that the provider verified that the employee has 1 year full-time experience with children.
- The employee file shows no evidence that the provider made efforts to obtain job-related references.
- The employee file shows a resume but there is no evidence of the provider verifying the employee's employment history.

How to be in compliance with the regulation

- The provider should document the attempt to obtain job-related references for the employee.
 - It is recommended that the references be a former co-workers or supervisors (not relatives) that can speak to the employee's previous work.
 - There should be a policy written on how many references must be obtain, whether or not it is a condition of employment, what to do if references cannot be obtained, what is acceptable, etc.
- The provider should document that the provider has verified the employee's experience written on their application or resume.
 - There should be a policy written on how this will be obtained, what is acceptable, who was spoken to that was able to make the verification, etc.
 - It is recommended to document when verifying: Job Title, Person at previous employment making the verification, Job Duties, Population worked with (children/adults), Dates of employment, Full-time or Part-time status.

Additional Information

- The I/H Guidance Document can be found at <http://www.dbhds.virginia.gov/assets/document-library/archive/library/licensing/licensingguidanceeihfebruary2013.pdf>
- The Guidance Document relating to how to comply with various DBHDS regulations can be found at <http://www.dbhds.virginia.gov/assets/document-library/archive/library/licensing/ol-licensing%20guidance%20final%20%2002082015.pdf>
- There is also a guidance document regarding TDT and MOUs <http://www.dbhds.virginia.gov/assets/document-library/archive/library/licensing/ol-tdt%20mou%20assistance.pdf>

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