SUMMARY OF ADVOCATE COMMENTS
RE: SUBCOMMITTEE TO REVIEW LHRC STRUCTURE RECOMMENDATIONS

Comments re: Recommendations Memo

Item	Summary of Comment	Subcommittee Response/Action
Affiliation Fees	The SHRC should provide guidance for ways to manage affiliation fees to assure consistent clerical support to the LHRCs, rather than eliminating the fees.	No change.
	Affiliation fees should be put under the total control of providers, who are responsible for assuring that the support needs of LHRCs are met. The providers could agree among themselves what fee is appropriate and also agree on a maximum balance.	Cooperative Agreement – Revise to include that a provider may delegate their support responsibility to another provider and compensate that provider for the costs of providing the support. Implementation Memo – Clarify that the change is primarily that if the provider elects to meet their support obligation to the LHRC by compensating another provider for the costs of providing the support, this compensation is not paid to the LHRC and is not a condition of affiliation. Outline ways providers can work together to meet the requirement of providing support for meetings without paying money to the LHRC.
	If there are no affiliation fees, how do we ensure adequate, professional and consistent clerical/administrative support to the LHRC?	Bylaws – Include a specific listing of the support that is required to be provided (directly or indirectly) by the providers to their LHRC. Clarify the Committee Secretary's role in coordinating this support, and in ensuring minutes and notices are posted as required. Cooperative Agreement – Include a specific list of the support that is required to be provided (directly or indirectly) by the providers to their LHRC. This would include each provider being responsible for providing adequate copies of materials in advance of the meeting.
Number of Affiliates per LHRC	The logistics of managing an LHRC with affiliates in excess of 25 is very difficult and would require increasing the number of meetings per year, reducing the number of meetings affiliates attend, etc.	Implementation Memo – Acknowledge that these types of changes may be necessary. Encourage LHRCs to focus on those activities that are most impactful.
Consolidating LHRCs	LHRCs are unable to take on the responsibilities of another whole committee.	Implementation Memo – Discuss that an LHRC without the Code-mandated members and/or without the required number of members may not operate adequately to provide individuals receiving services with assurance that their rights will be protected.

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Consolidating LHRCs	Before considering consolidation, will the SHRC consider the distance between the struggling LHRC and the nearest LHRC in compliance?	Implementation Memo – Clarify that consolidation is not an automatic action taken by the SHRC, but that review of the viability of the LHRC is. Indicate that the SHRC will be developing a process for reviewing LHRC consolidation. This process will stress the goal to ensure access to LHRCs by individuals receiving services; methods for addressing distance will be incorporated.
LHRC Review of Behavioral Plans	LHRCs sometimes review restrictive treatment plans involving rights such as use of the telephone, visitors and access to community outings as a means of keeping the committee abreast of the interplay between rights and services at community programs.	No change. It is the Advocate's responsibility to review these types of restrictions prior to implementation. If the Advocate would like to educate the LHRC about these types of plans, the Advocate can do so, but it is not the LHRC's role to review the actual plans. If the LHRC has concerns about a provider's use of these types of restrictions (based on information the LHRC receives from the Advocate), the LHRC may request additional information from the provider.

Comments Re: Model Bylaws

Item	Summary of Comment	Subcommittee Response/Action
Article II, Section E Review Policies and Practices	Reword to eliminate "upon request of the human rights advocate, individuals receiving services, the executive director of a provider".	No change. Current language is directly from Regulations.
Article II, Section E Inform SHRC of Activities	Is notice after the fact acceptable?	Implementation Memo – Clarify that advance notice is not necessary. Clarify purpose of informing SHRC.
	Remove requirement to inform SHRC.	No change.
Article II, Section H Review of Behavioral Treatment Plans	Intermediate Care Facilities for the Mentally Retarded (ICFMRs) are required by Medicaid to have a committee review a wider range of behavior plans and programs. Some ICFMRs have been using the LHRC for this function.	Implementation Memo – The committee that fulfills the Medicaid requirement could have the same membership as the LHRC and could meet immediately before or after the LHRC, but it would not be a public body.
Article II, Section P Cooperative Agreements	Change "in order to further the shared goal of promoting the rights of individuals receiving services" to "assure compliance with the Regulations".	No change. It is the role of the Human Rights Advocate to "promote and monitor provider compliance" with the Regulations. It is the role of the LHRC to provide individuals receiving services "assurance that his/her rights ... will be protected."

Item	Summary of Comment	Subcommittee Response/Action
Article III, Section 1 Health Care Provider	Health care provider should be defined.	Implementation Memo – Provide current SHRC guidance and inform that additional guidance will be sent once developed.
Article III, Section 1 Membership	Should add that members of the Board of Directors of affiliated providers are prohibited from serving on the LHRC.	Bylaws – Add this restriction.
	Should add term limits.	Bylaws – Revise to include language from Regulations (no more than 2 consecutive 3-year terms).
Article III, Section 1 Staggered Terms	No mention of staggered terms.	Bylaws – Include language from Regulations about staggered initial appointments.
Article III Membership	SHRC should require that the providers of LHRCs without adequate consumer representation submit the name of potential consumer candidates to the Human Rights Advocate within 90 days, prior to taking any action to consolidate the LHRC.	No change.
Article III, Section 3 Removal of LHRC member for non-attendance	This would require LHRC to recommend removal. Should allow some discretion by the LHRC for some situations. Change "2" to "more than half", change "shall" to "may".	Bylaws – Change "2" to "more than 33%" of meetings . Change "shall" to "may".
Article III, Section 4 Orientation	Eliminate.	No change.
Article IV, Section 1 Officers	Advocate supports including Committee Secretary as an Officer.	
	Eliminate Committee Secretary.	No change. The Committee Secretary may provide coordination support to address some of the concerns raised about lack of "consistent" clerical support to LHRC.
	Is the Committee Secretary a non-voting person? How do we ensure that a provider that only has to attend one meeting per year is maintaining records appropriately? Only one provider should be designated as being the custodian of meeting minutes. Eliminate having provider "handle correspondence related to the LHRCs activities."	Implementation Memo – Clarify that the Committee Secretary is one of the LHRC members. Bylaws – Revise to state that the Secretary is responsible ensuring minutes and notices are posted as required. The Secretary is also responsible for ensuring that the LHRC provider liaison designated as being custodian of meeting minutes and all other records of the LHRC is maintaining records appropriately. Include a specific listing of the support that is required to be provided (directly or indirectly) by the providers to their LHRC. Clarify the Secretary's role in coordinating this support.

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Article IV, Section 2 Duties of Chairperson	Add "as necessary to carry out its objectives consistent with the bylaws." Add specific language about number of members, etc.	Bylaws – Add "as necessary to carry out its objectives consistent with the Regulations." Add minimum of 2 members, add appointment of a subcommittee chairperson.
	How will the Chairperson inform provider liaisons of the activities of the LHRC?	Implementation Memo – Provide suggestions for communications between the LHRC and providers outside of the LHRC meeting – encouraging providers to read LHRC minutes posted on DBHDS website, for example.
Article V, Section 1 Meetings	LHRC should establish an annual calendar of meetings, and give notice. Agenda items should be submitted to the Chair 2 weeks in advance. Agenda should be sent to all members and other interested persons in advance of the meeting.	Bylaws – Add language as suggested.
Article VII Quorum	Advocate supports quorum being a majority of the members.	
Article VII, Section 2 Relationship to Providers	Eliminate "The LHRC shall operate in a consultative and supportive manner with affiliated providers."	No change.
	Eliminate notifying providers "in writing..."	No change.
	Add "Monitor the affiliated providers' services and policies and procedures to assure the protection of the rights of individuals receiving services."	No change. The Regulations state that it is the role of the Human Rights Advocate to "promote and monitor provider compliance" with the Regulations. It is the role of the LHRC to provide individuals receiving services "assurance that his/her rights ... will be protected."
Other	The Regulations state that General Rules of Conduct shall be submitted to the LHRC prior to implementation – this should be added to the Bylaws.	No change. The Regulations state "submit the rules to the LHRC for review and approval upon request of the advocate or LHRC". This language does not require LHRC approval, but does permit it. It is overly burdensome for the LHRC to review all Rules of Conduct.
	Outline the role of the advocate as the technical advisor to the LHRC.	Bylaws – Add to Article VII, Organizational Structure ("provide orientation, training, and technical assistance")

Cooperative Agreement

Item	Summary of Comment	Subcommittee Response/Action
General Comments	Sets a very different tone than previous agreements.	
	One Advocate suggested significant revisions. These revisions eliminated all language regarding LHRC cooperation and revised language to be more directed at compliance by providers.	No change to tone. The approach of the Subcommittee was to shift the relationship between LHRC and providers from a "required/ compulsory" relationship to a "collaborative/ advisory" relationship. If a provider is not engaging the LHRC at this level, the Advocate can strongly encourage that the provider be more cooperative.
	Decreasing the providers' accountability to our LHRCs will not reduce the burden on the Human Rights Advocates	Implementation Memo – Discuss how recommendations are designed to focus the LHRCs' activities on those things that are most impactful. Encourage Advocates to engage providers at times other than LHRC meetings through email or phone if face-to-face is not feasible, and to provide training to LHRC members and providers at LHRC meetings to encourage provider's elective attendance. The goal is to strengthen the relationship between Advocate and provider, consistent with vision outlined at April meeting. ("We will know when the human rights system is successful when providers and individual seek training and consultation regarding the Regulations.")
	Signing the Cooperative Agreement is no assurance that providers understand their obligations under the Regulations.	Implementation Memo – It is the Human Rights Advocate's responsibility to ensure that providers are compliant with the Regulations. Those who are not compliant risk a Licensure citation and sanctions invoked by the Commissioner. Cooperative Agreement – Add that providers who are not compliant with the Regulations (which includes cooperating with the LHRC and Human Rights Advocate, complying with requests for information regarding compliance with the Regulations, and complying with LHRC requests for support for LHRC meetings) may be subject to a Licensure citation and sanctions invoked by the Commissioner.
LHRC Recommendations	Requires provider response within 15 working days, but Regulations require provider has to respond within 5 days of a finding as a result of a hearing.	Cooperative Agreement – Revise to clarify 5 days for responding to findings
	Add "unless the LHRC extends or shortens this timeframe"	No change.

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LHRC Membership	If the provider only has to attend one meeting per year, how will the provider know that Committee's recruitment needs?	Implementation Memo – Provide suggestions for communications between the LHRC and providers outside of the LHRC meeting – encouraging providers to read LHRC minutes posted on DBHDS website, for example.
	Add that the provider should provide applications for LHRC membership to potential members.	Cooperative Agreement – Revise to include providing applications.
Attendance and LHRC Meetings	If the provider only has to attend one meeting per year, how will the provider hear the other information discussed?	Implementation Memo – Provide suggestions for communications between the LHRC and providers outside of the LHRC meeting (encourage providers to read LHRC minutes posted on DBHDS website, for example). Encourage Human Rights Advocates to send out periodic update emails about HR trends for providers. Suggest Advocates provide training at LHRC meetings to encourage provider's elective attendance.
	Annual attendance at a LHRC meeting does not enhance the working relationship between the provider and the LHRC. Recommend that providers be required to attend quarterly meetings.	No change. The Cooperative Agreement states "The Provider will ensure that the appropriate staff attend LHRC meetings according to a schedule which will be provided by the LHRC, but no less often than annually." This would permit the LHRC to require more frequent attendance. However, the approach of the Subcommittee was to shift the relationship between LHRC and providers from a "required/ compulsory" relationship to a "collaborative/advisory" relationship. The ideal state is that providers attend LHRC meetings because they receive a real benefit from attending. ("We will know when the human rights system is successful when providers ... seek training and consultation") If a provider is not engaging the LHRC at this level, the Advocate can strongly encourage that the provider be more cooperative. Implementation Memo – Clarify that the Cooperative Agreement states "no less often than annual" attendance, and that the LHRC can require a provider to attend more frequently. However, in keeping with a more collaborative approach, it is preferable that the requirement to attend more frequently be limited to those providers for whom the LHRC and/or the Advocate have particular concerns.

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	Clarify that the Advocate and/or LHRC can require (not just request) provider attendance to provide information.	Cooperative Agreement – Clarify that if a provider is requested to attend and provide information, the provider agrees to do so.
	Providers should attend all LHRC meetings to gain greater insight into the workings of the LHRC and how to address human rights issues that they may encounter.	No change. Providers should be encouraged, but not required, to attend all LHRC meetings. Implementation Memo -- If there are topics that the Advocates feel are important for the providers to be aware of, they can share that information during visits to the providers, via email or through periodic workshops for providers (which could be provided during an LHRC meeting, in order to encourage provider attendance).
	If providers attend only one LHRC meeting per year, they may think that they only have to report human rights issues once per year.	Implementation Memo – It is incumbent upon the Human Rights Advocate to ensure that providers are compliant with the Regulations, including immediate reporting requirements.
	Recommend that meeting attendance be a minimum of quarterly. If LHRC members are required to attend every meeting, or risk removal from the Committee, providers should also be required to attend all meetings. Providers have the option of sending an alternate if they cannot attend the meeting.	No change.
	Need to clarify the attendance schedule.	Cooperative Agreement – Clarify that the LHRC will prepare an annual calendar that will include each provider's scheduled annual report, in addition to any other meetings that the provider is required to attend (if the LHRC is requiring attendance at more than one meeting per year.)
Optional Attendance	If providers are told that attendance is "encouraged" this will lead to a drastic reduction in provider attendance.	No change. The approach of the Subcommittee was to shift the relationship between LHRC and providers from a "required/ compulsory" relationship to a "collaborative/ advisory" relationship. If a provider is not engaging the LHRC at this level, the Advocate can strongly encourage that the provider be more cooperative.

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Support to the LHRC	Agreement should specify how all of the supports will be provided by the providers.	Cooperative Agreement – Currently, there is a blank space to provide this information. Revise this to be a bulleted list outlining required and optional support. Include in this list the option to delegate support responsibility to another provider and compensate that provider for the costs of providing the support.
	Adequate, professional and consistent clerical/ administrative support is very important to the work of the LHRC.	Implementation Memo –Include this concept, suggest ways that LHRC and providers can work together to ensure consistent support.
Affiliation Fees	The Agreement gives permission for one provider to accept the role of providing support to the LHRC, but prohibits the remaining affiliates from contributing to this support function monetarily.	Cooperative Agreement – Revise to include that a provider may delegate their support responsibility to another provider and compensate that provider for the costs of providing the support. Implementation Memo – Outline some possible ways providers can work together to meet this requirement, without paying money to the LHRC.
Reporting Requirements Quarterly Report	Should require that Quarterly Reports be submitted to the LHRC and Advocate at least two weeks prior to LHRC meeting.	Cooperative Agreement – Revise to include this timeline.
	Discontinue Quarterly reports at least until the CHRIS system is in place. Instead focus on Annual Reports.	No change.
	Who presents the Quarterly Report to the LHRC?	Cooperative Agreement – Clarify this is a written report and that the provider is not required to attend the meeting to present it. If, however, the Advocate or LHRC have questions/ concerns about the report, they can request additional information or for the provider to attend and respond to questions.
	Add "Corrective Actions Taken" for abuse allegations and for complaints of human rights violations to the quarterly report and to the annual report.	Cooperative Agreement – Add "Corrective Actions Taken" to both the Quarterly and the Annual Report.
	Change "some of the provider's human rights activities" to "all of the provider's human rights activities."	No change. Since the protection of individual rights should be interwoven into the provision of services, it would be difficult for a provider to segregate "human rights activities" from "quality assurance" or "best practice."

Item	Summary of Comment	Subcommittee Response/Action
Noncompliance with Agreement	What happens to the affiliated provider who does not comply with this agreement? (several versions of this question)	Cooperative Agreement – Add that providers who are not compliant with the Regulations (which includes cooperating with the LHRC and Human Rights Advocate, complying with requests for information regarding compliance with the Regulations, and complying with LHRC requests for support for LHRC meetings) may be subject to a Licensure citation and sanctions invoked by the Commissioner.
LHRC Contact Information	Is this the LHRC Chair's home address or is it the Advocate's address?	No change, it is the address that the LHRC Chair would like LHRC correspondence to go to.
	Remove LHRC Chair contact information. Add fax number to all contacts.	Cooperative Agreement – Keep LHRC Chair contact information. Add fax number to all contacts.
Other	Add a statement about the advocate and his/her role with respect to the LHRC and the provider. The advocate is the technical advisor to the LHRC and the person who holds a regulatory/compliance role with the provider which makes the advocate the conduit which joins both groups together.	Cooperative Agreement – Add the role of the Advocate.