

Grievance Standard Operating Procedure

Version 01, July 15, 2022

Policy Statement:

The Behavioral Health Administration (BHA) will accept and investigate all grievances and critical incident reports that it receives in a timely and effective manner. Furthermore, C.R.S. 27-50-108 (HB22-1278) requires the BHA, in collaboration with other state agencies and ombudsman offices, to stand up a comprehensive behavioral health system grievance resolution process that meets the needs of all Coloradans, by July 1, 2024. In order to develop a plan, the Agencies will work together to identify the relevant rules and laws related to grievances in order to identify barriers and policy recommendations. This BHA policy does not supersede other State Agency Grievance policies, but exists concurrently and in coordination with such policies.

This SOP is a living document and will be updated as grievance resolution processes develop in collaboration with other state agencies.

Definitions:

- **Critical Incident Report:** Pursuant to Rule Volume 2 CCR 502-1, Section 21.140, a critical incident is any significant event or condition at an agency (i.e. provider) licensed or designated under 2 CCR 502-1, Section 21.120 that must be reported within twenty-four (24) hours to the BHA that is of public concern and/or has jeopardized the health, safety and/or welfare of individuals or staff including but not limited to the following:
 - **Breach of Confidentiality:** Any unauthorized disclosure of protected health information as described in HIPAA and/or 42 CFR Part 2.
 - **Assault:** Any incident involving an act of physical or sexual aggression; on facility premises; injury to clients or staff requiring medical attentions; police involvement.
 - **Death:** Any incident at the facility that results in the death of a patient; in or out of facility while a client is receiving services or unexplained cause or under suspicious circumstances.
 - **Elopement:** absconsion from a mental health hold, certification, emergency/involuntary commitment, or a secure facility where an individual is being held as a result of a court order.

- o **Medication Diversion/Error:** Any medication error or medication diversion as defined in 2 CCR 502-1; 21.300.1 and 21.300.3(J).
- o **Medical Emergency:** Any suicide attempt/self injury, other form of injury, health emergency, or serious illness which occurred on facility premises.
- **Grievance:** A grievance is currently defined as a care concern submitted to an agency [individual provider] pursuant to Rule Volume 2 CCR 502-1, Section 21.180 or to the Behavioral Health Administration pursuant to C.R.S. 27-50-108 (HB22-1278). Grievances may be submitted to the BHA via email CDHS_BHA_complaint@state.co.us; via the BHA Individual Complaint [Form](#) (Client Services); or via the Complaint phone line: 303.866.7191.

Procedure for grievances submitted to an individual provider:

1. The agency [in this case, the provider] shall provide a fair and accessible grievance resolution process, which shall provide the individual with a resolution no later than thirty (30) business days from submission of the grievance. If the grievance is received verbally the representative shall create a written documentation of the grievance.
2. As part of the providers' resolution process, the providers shall advise persons who have submitted a grievance with information to also submit the grievance to the BHA.

Procedure for grievances submitted to the BHA:

1. Grievances submitted to the BHA may originate from any individual or entity, including but not limited to, recipients of service, family members of recipients of service, authorized representatives of recipients of service, licensed facilities, state Departments and members of the general public.
2. The BHA Complaint Section Manager shall triage all grievances and determine if the concern falls within the statutory and regulatory scope of the BHA.
 - If yes, the Complaint Manager shall assign the matter to a BHA Licensing Manager or Enforcement Manager for investigation. If the investigation results in findings of a regulatory violation, the Licensing Manager or Enforcement Manager shall proceed in the citation and plan of action process pursuant to Rule Volume 2 CCR 502-1, Section 21.120.6. Additionally, the BHA Licensing and Enforcement Managers shall determine when the matter intersects other jurisdiction and shall make referrals to the appropriate departments, including at a minimum, the Department of Regulatory Agencies for professionals that may be individually licensed, and the Colorado Department of Public Health



and Environment for other facility licensure. These external reports shall be made within three business days after discovery of sufficient information warranting such a referral. State agencies will reciprocate when appropriate and coordinate with the BHA to assure the most appropriate agency investigates a grievance.

- If no, the Complaint Manager, consistent with state and federal law, shall make referrals to the appropriate departments, including at a minimum, the Department of Regulatory Agencies for professionals that may be individually licensed, and the Colorado Department of Public Health and Environment for other facility licensure. These external reports shall be made within three business days after discovery of sufficient information warranting such a referral. This shall be accompanied with other resources for follow-up or investigation by those entities and the Complaint Manager shall respond to the complainant in writing regarding the disposition. The BHA written disposition will include a plain explanation of the specific regulatory authority of the BHA and if such is the case, why the BHA may not be able to issue violations because the issue falls outside of that regulatory scope.
3. All complaints will receive a written response to the complainant within 30 business days. The BHA's response will include information on how to contact the Behavioral Health Ombudsman, who, among other functions, serves as a neutral party to help consumers and health care providers with concerns and complaints to resolve issues related to consumer (i.e. individual) access to behavioral health care. The response will also include direction to the Behavioral Health Ombudsman's website for additional information, <https://behavioralhealthombudsman.colorado.gov/>.
 4. The BHA shall, consistent with state and federal law, share grievance, and critical incident reports with appropriate departments and the Behavioral Health Ombudsman, and publish on an annual basis aggregated and anonymized data concerning the type and frequency of complaints and grievances received. This shall inform prioritization and strategies for systemic change focusing on service availability, workforce development and payer source, as dictated by the most frequent concerns.

