



COMMONWEALTH of VIRGINIA  
STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

**DRAFT MEETING AGENDA**  
Wednesday, September 27, 2023

DBHDS Piedmont Geriatric Hospital, Auditorium  
5001 East Patrick Henry Hwy, Burkeville, VA 23922

**CONCURRENT COMMITTEE MEETINGS**

8:30 a.m. – 9:25 a.m.

*\*Meetings will be in person with a physical quorum present, with electronic or phone connection available.*

8:30	<ul style="list-style-type: none"> <li><b><u>Policy and Evaluation Committee</u></b> <i>Small Meeting Room</i></li> </ul> <p>*OR Microsoft Teams meeting <b>Join on your computer, mobile app or room device</b> <a href="#">Click here to join the meeting</a> Meeting ID: 267 416 125 833 Passcode: NiKPo7 <a href="#">Download Teams</a>   <a href="#">Join on the web</a></p> <p><b>Or call in (audio only)</b> <a href="#">+1 434-230-0065,,925091888#</a> United States, Lynchburg Phone Conference ID: 925 091 888# <a href="#">Find a local number</a>  </p> <hr/> <ul style="list-style-type: none"> <li><b><u>Planning and Budget Committee</u></b> <i>Auditorium</i></li> </ul> <p>OR see main meeting log in info below (next page.)</p>	<p>Josie Mace <i>Director of Legislative Affairs</i></p> <hr/> <p>Ruth Anne Walker <i>Board Liaison</i></p>
9:25	<b>Adjourn</b>	

**CONTINUED -**

**STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES**

**REGULAR MEETING**

Wednesday, September 27, 2023

9:30 a.m. – 3:00 p.m.

DBHDS Piedmont Geriatric Hospital, Auditorium  
5001 East Patrick Henry Hwy, Burkeville, VA 23922

**\*This meeting will be in person with a physical quorum present, but electronic or phone connection is available:**

Microsoft Teams meeting

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Meeting ID: 271 847 860 68

Passcode: JbHeQR

**Or call in (audio only)**

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Phone Conference ID: 504 177 460#

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<b>1.</b>	9:30	<p><b>Call to Order and Introductions</b></p> <p><b>Approval of September 27, 2023, Agenda</b> ➤ <i>Action Required</i></p> <p><b>Approval of Draft Minutes</b> <b>-July 11, 2023</b> <b>Biennial Planning Meeting,</b> <b>Nominating Committee Meeting</b> <b>-July 12, 2023</b> <b>Regular Meeting</b> ➤ <i>Action Required</i></p>	<p>Elizabeth Hilscher <i>Chair</i></p>	<p>5 9 10</p>
<b>2.</b>	9:35	<p><b>Regulatory Actions</b></p> <p><b>A. Final: FFPSA [Regulations for Children's Residential Facilities, 12VAC35-46].</b> ➤ <i>Action Required</i></p> <p><b>B. Revised Proposed Language IFSP [Operation of the Individual and Family Support Program, 12VAC35-230].</b> ➤ <i>Action Required</i></p> <p><b>C. Initiate periodic review: Part C [Requirements for Virginia Early Intervention System, 12VAC35-225].</b> ➤ <i>Action Required</i></p> <p><b>D. Regulatory Activity Status Update</b></p>	<p>Ruth Anne Walker <i>Director of Regulatory Affairs</i> <i>Board Liaison</i></p> <p>Susan Puglisi <i>Regulatory Research Specialist</i> <i>Office of Regulatory Affairs</i></p> <p>Heather Norton <i>Assistant Commissioner</i> <i>Developmental Services</i></p>	<p>20 28 39 40</p>

3.	9:45	<b>Commissioner's Report</b>	Nelson Smith <i>Commissioner</i>	
4.	10:15	<b>Member Tour: VCBR</b>	Jason Wilson <i>Director, VCBR</i>	
5.	11:15	<b>Member Tour: Piedmont</b>	Emma L. Lowry <i>Director, PGH</i>	
6.	12:00	<b>Lunch: Break and Collect Lunch</b>		
7.	12:15	<b>PGH Presentation</b>	Emma L. Lowry	
8.	12:35	<b>VCBR Presentation</b>	Jason Wilson	
9.	1:00	<b>Update: Virginia Association of Community Services Boards</b>	Jennifer Faison <i>VACSB Executive Director</i>	
10.	1:20	<b>2023 Post-Session/2024 Pre-Session Updates</b> <b>A. Budget</b> <b>B. Legislative</b>	Nathan Miles <i>Chief Financial Officer</i>  Josie Mace <i>Director of Legislative Affairs</i>	
11.	1:40	<b>Committee Reports:</b> <b>A. Policy and Evaluation</b> <b>B. Planning and Budget</b>	Josie Mace Ruth Anne Walker	<b>44</b> <b>41</b>
12.	2:00	<b>Update: Clinical Operations</b>	Alexis Aplasca <i>Chief Clinical Officer</i> <i>Senior Clinical Advisor for</i> <i>Governor Youngkin's Right Help, Right Now</i> <i>Behavioral Health Transformation Plan</i>	
13.	2:20	<b>Annual Human Rights Report</b>	Taneika Goldman <i>State Human Rights Director</i>	
14.	2:40	<p><b>Public Comment</b> (3 minute limit per speaker)  <i>Public comment will not be accepted on petitions for rulemaking or regulatory actions in which the comment period has closed. It is preferred that persons wishing to give comment submit an email to <a href="mailto:ruthanne.walker@dbhds.virginia.gov">ruthanne.walker@dbhds.virginia.gov</a> no later than 5:00 p.m. on September 26, 2023, indicating that they wish to provide a brief verbal comment. As the names of these individuals are announced at the beginning of the public comment period, three minutes of comment may be offered, within the overall time allowed for comments. Written public comment may be sent by email to <a href="mailto:ruthanne.walker@dbhds.virginia.gov">ruthanne.walker@dbhds.virginia.gov</a> no later than 10:00 a.m. on September 27, 2023. Instructions for calling into the meeting are included above.</i></p>		

15.	2:50	<b>Miscellaneous</b> <b>A. Liaison Updates: Confirmation of New Assigned Areas.</b> <b>B. Other Business</b> <b>C. Next Meeting: December 6, 2023.</b>	
16.	3:00	<b>Adjournment</b>	

*(Note: Times may run slightly ahead of or behind schedule.  
If you are on the agenda, please plan to be at least 10 minutes early.)*

### MEETING SCHEDULE

DATE	Location
<b>2023</b>	
December 6 (Wed)	Central Office Richmond
<b>2024</b>	
April 3 (Wed)	<i>TBD: Catawba or SVMHI</i>
July 17 (Wed)	Eastern State Hospital Williamsburg
September 25 (Wed)	<i>TBD: Catawba or SVMHI</i>
December 11 (Wed)	Central Office Richmond
<b>2025</b>	
April 2 (Wed)	<i>TBD but not Richmond</i>
July 9 (Wed)	Central Office Richmond

# STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

## BOARD BIENNIAL PLANNING MEETING

### **DRAFT MINUTES**

(per [Bylaws](#), Article 5.c.)

**Tuesday, July 11, 2023**

DHBDS, 13<sup>th</sup> Floor Conference Room, Jefferson Building,  
1220 Bank Street, Richmond, VA 23219

	<p><b>Members Present:</b> Elizabeth Hilscher, Chair; Rebecca Graser, Vice Chair; Blake Andis; Varun Choudhary; Cindy Lamb; Kendall Lee; Moira Mazzi; Christopher Olivo.</p> <p><b>Members Absent:</b> Sandra Price-Stroble.</p> <p><b>Staff Present:</b> Madelyn Lent; Meghan McGuire; Nathan Miles; Nelson Smith; Ruth Anne Walker.</p>
1:00	<p><b>Welcome and Introductions</b></p> <p>At 1:00 p.m., Elizabeth Hilscher, Chair, called the meeting to order, welcomed everyone present, and initiated introductions. New board member Cindy Lamb was welcomed. Ms. Lamb spoke briefly about her background and her interest in serving on the board.</p>
1:15	<p><b>Opening Statements</b></p> <p>Nelson Smith, Commissioner, thanked the board for the opportunity to provide what he hoped would be some helpful information as the board established its priorities and areas of focus for upcoming meetings. He planned to cover some of the biggest priorities at DBHDS, including challenging issues, Right Help Right Now implementation, and implementation of the agency's strategic plan.</p>
1:30	<p><b>Review and Discussion of DBHDS Strategic Plan including Metrics Update (Dashboard)</b></p> <p>Mr. Smith stated the six-pillared Right Help, Right Now initiative is the top priority for the agency to address Virginia's behavioral health challenges, encompassing crisis care, law enforcement burden, substance use disorder support, behavioral health workforce and service delivery innovation. The other key areas of strategic focus are:</p> <ul style="list-style-type: none"><li>▪ DBHDS Strategic Plan: Broad systematic improvements to ensure the workforce, community capacity, and modernized system to meet the goals of Right Help, Right Now.</li><li>▪ Developmental Disability system (including the US DOJ Settlement Agreement with Virginia): Continuing to build the quality, reliable, integrated system Virginians with DD and their families deserve, even after exiting the agreement.</li></ul>

	<ul style="list-style-type: none"> <li>▪ Crisis system buildout: Working to ensure Virginians in crisis have 1) someone to talk to, 2) someone to respond, and 3) a place to go.</li> <li>▪ State hospital and forensic admissions: Increasing the retention rate, reopening beds in 6 of the 8 adult hospitals. Working on ways to address the skyrocketing forensic census.</li> <li>▪ Substance use disorders/Fentanyl crisis: Steps to combat dramatic increases in deaths from overdoses. Fentanyl caused 76% of overdoses in 2021.</li> <li>▪ Certified community behavioral health clinics (CCBHCs): Chief Deputy Commissioner Ellen Harrison presented in detail at the March meeting on this topic; DBHDS is moving forward with efforts and will apply for the demonstration grant.</li> <li>▪ Youth behavioral health: Creating transformational school-based services to reach more youth and earlier, with no need for additional transportation to services off site.</li> </ul> <p>The strategic plan was reviewed in past meetings. Mr. Smith shared the online DBHDS dashboard for progress and accountability, which is an interactive tool where the public can view the outcomes of the strategic plan and track progress for each of the nine goals. (<a href="https://dbhds.virginia.gov/about-dbhds/strategic-plans/">https://dbhds.virginia.gov/about-dbhds/strategic-plans/</a>)</p> <p>Members asked clarifying questions and discussed the information with Mr. Smith.</p>
2:15	<p><b>DBHDS Budget</b></p> <p>Nathan Miles, Chief Financial Officer, explained how the agency’s budget responsibility falls into five functional areas: facilities, Medicaid function, licensing authority, state contracts, and grants. The agency budget is organized across five areas: Central Office, grants to localities, mental health hospitals, training centers, and the Virginia Center for Behavioral Rehabilitation. The agency must receive General Assembly approval to move funds from one organizational area to another. He reviewed the operating and capital figures for the agency’s facilities, Central Office, and community services boards. Finally, he reviewed Virginia’s budget development <a href="#">process</a>.</p>
2:45	<p><b>Break</b></p>
3:00	<p><b>Board Response: Biennium Priorities</b></p> <p>Beginning at 3 p.m., Ms. Hilscher reminded members of the purpose of the setting of priorities for the system to convey to the Governor and the General Assembly as the new biennium budget would be prepared. Through facilitated discussion with Meghan McGuire, Deputy Commissioner, Policy and Public Affairs. The board developed a list of draft priorities for the board to consider at the regular meeting the next day.</p>

	<ol style="list-style-type: none"> <li><b>1. Endorse the Governor’s Right Help Right Now initiative, which has the potential to be transformative for Virginians.</b> In particular, the board has interest in increased capacity of community-based services and prioritization of the developmental disability and behavioral health workforce, including targeted salary increases for food services and environmental services at DBHDS state facilities to reduce turnover and vacancy among the lowest paid positions.</li> <li><b>2. Eliminating the Priority 1 DD Waiver waiting list.</b> This is a strong endorsement of current Administration initiatives within Right Help Right Now and the department’s strategic plan.</li> <li><b>3. In lieu of inpatient hospital care, provide short-term community-based crisis beds in smaller settings to serve individuals across the life span</b> (ex., CITAC; 12 beds for less than 30 days that connects individuals to services upon discharge). This setting could also help to address dually diagnosed individuals with developmental disability/mental illness who have challenging and sometimes violent behaviors.</li> <li><b>4. Strongly support school-based and other youth services from birth to transition age (age out of school or graduation).</b> <ol style="list-style-type: none"> <li>A. Building out mental health support services to fill the gap between Early Intervention services and once a child is at school (ages 2-6), including improving CSBs and private provider bandwidth to serve the early childhood/pre-k age group.</li> <li>B. Dedicated mental health professionals in the schools.</li> <li>C. School resource officers to help connect to resources.</li> </ol> </li> <li><b>5. Review and consider amending the bed of last resort law</b> to correct significant unintended consequences that overburden the state hospital system, law enforcement, community services boards, and other system partners.</li> <li><b>6. Consider incorporation of best practices into Virginia’s temporary detention order law</b> through comparison of other states’ laws.</li> </ol>
4:45	<b>Other Business</b> <ul style="list-style-type: none"> <li>▪ Proposed meeting dates were discussed through July 2025, to be confirmed at the meeting the next day.</li> <li>▪ Ruth Anne Walker offered to review the nomination procedures to occur at the regular meeting, but there were no questions.</li> </ul>
5:00	Ms. Hilscher adjourned the planning meeting at 4:55 p.m.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

NOMINATING COMMITTEE MEETING

DRAFT MINUTES

(per [Bylaws](#), Article 4.a-b.)

Tuesday, July 11, 2023

DHBDS, 13<sup>th</sup> Floor Conference Room, Jefferson Building,  
1220 Bank Street, Richmond, VA 23219

This meeting was held in person with a quorum of members physically present.

**Members Present:** Moira Mazzi; Christopher Olivo.

**Members Absent:** Sandra Price-Stroble.

**Staff:** Ruth Anne Walker, Board Liaison and Director of Regulatory Affairs.

5:05 p.m.

**Call to Order**

Acting Committee Chair Moira Mazzi called the meeting to order. A quorum was present.

5:06 p.m.

**Approval of July 11, 2023, Agenda**

*On a motion by Christopher Olivo and a second by Ms. Mazzi, the agenda was adopted.*

5:07 pm.

**Consideration of Nominees for Slate**

Ms. Mazzi referenced that the Bylaws of the Board lay out the timeframe for the nominations and elections of officers. She reported that after Ms. Price-Stroble communicated with all members to confirm interest of anyone interested in running for the chair and vice chair positions, that only the current chair was interested in running for that office and only Kendall Lee was interested in running for the vice chair position. *Mr. Olivo moved to nominate as a slate, Elizabeth Hilscher for the chair position and Kendall Lee for the vice chair position. Ms. Mazzi seconded the motion. The vote was unanimous to adopt the slate as presented.* Ms. Mazzi announced that the report of the committee would be made to the full board at the July 12, 2023, regular meeting.

5:09 p.m.

**Adjournment**

Ms. Mazzi adjourned the meeting at 5:09 p.m.

The Nominating Committee is an ad hoc committee formed by the current chair in accordance with Article 4 b. of the [Bylaws](#).



# STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

## Regular Meeting

### DRAFT MINUTES

Wednesday, July 12, 2023

9:30 a.m. – 3:00 p.m.

**DBHDS Central State Hospital, Building 113, Room 222,  
26317 W Washington St, Petersburg, VA 23803**

*This meeting was held in person with a physical quorum present,  
with electronic or phone connection available. A recording of the meeting is available.*

<b>Members Present</b>	Elizabeth Hilscher, Chair; Kendall Lee, Vice Chair; R. Blake Andis; Varun Choudhary; Rebecca Graser; Moira Mazzi; and Christopher Olivo.
<b>Members Absent</b>	Sandra Price-Stroble.
<b>Staff Present</b>	<ul style="list-style-type: none"> <li>• Susan Alabanza, Hiram Davis Medical Center (HDMC) Clinical Director.</li> <li>• Jae Benz, Licensing Director.</li> <li>• Lauren Cunningham, Communications Director.</li> <li>• Taneika Goldman, State Human Rights Director.</li> <li>• Jarvis Griffin, Director, HDMC.</li> <li>• Cassie Grillon, Marketing and Communications Manager.</li> <li>• Brandi Justice, Director, Central State Hospital (CSH).</li> <li>• Kimberly King, Community Integration Manager.</li> <li>• Madelyn Lent, Policy Manager.</li> <li>• Josie Mace, Legislative Affairs Director.</li> <li>• Meghan McGuire, Deputy Commissioner, Policy and Public Affairs.</li> <li>• Nathan Miles, Chief Financial Officer.</li> <li>• Heather Norton, Assistant Commissioner, Developmental Services.</li> <li>• Robert Primmer, HDMC Assistant Finance Director.</li> <li>• Susan Puglisi, Regulatory Research Specialist.</li> <li>• Nelson Smith, Commissioner.</li> <li>• Ruth Anne Walker, Regulatory Affairs Director and State Board Liaison.</li> <li>• Angela Torres, Director, Forensic Services.</li> </ul>
<b>Invited Guests:</b>	<ul style="list-style-type: none"> <li>• Jennifer Faison, Executive Director, Virginia Association of Community Services Boards.</li> </ul>
<b>Other Guests:</b>	<p>In Person:</p> <ul style="list-style-type: none"> <li>• Chris Fleury, Health Policy Analyst, Medical Society of Virginia.</li> </ul> <p>Attending Electronically:</p> <ul style="list-style-type: none"> <li>• Erin; GL; LeVar Bowers.</li> </ul>

	<ul style="list-style-type: none"> <li>• Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, DARS.</li> <li>• Katie Boyle, Director of Government Affairs, Virginia Association of Counties.</li> <li>• Lexi Hill, Governor’s Fellow.</li> <li>• Leah Mills, Deputy Secretary, Health and Human Resources.</li> <li>• Elizabeth C. Parker.</li> <li>• Karen A. Taylor, Senior Assistant Attorney General, Health Services Section.</li> <li>• Allyson Tysinger, Senior Assistant Attorney General, and Health Services Section Chief.</li> </ul>
<b>Call to Order and Introductions</b>	At 9:30 a.m., Elizabeth Hilscher, Chair, called the meeting to order and welcomed those present. A quorum of eight members was physically present. Ms. Hilscher welcomed new board member Cindy Lamb of Stafford County, and appointed Ms. Lamb to serve as a member of the Planning and Budget Committee.
<b>Approval of Agenda</b>	<i>At 9:31 a.m. the State Board voted to adopt the July 12, 2023, agenda. On a motion by Rebecca Graser and a second by Kendall Lee, the agenda was approved.</i>
<b>Approval of Draft Minutes</b>	<i>At 9:34 a.m., on a motion by Moira Mazzi and a second by Ms. Graser, the March 29, 2023, regular meeting minutes were approved as final. On a motion by Christopher Olivo and a second by Dr. Lee, the March 28, 2023, community dinner meeting minutes were approved as final. Ms. Lamb abstained as she was not present.</i>
<b>Officer Elections</b>	<p>At 9:35 a.m., Ms. Hilscher turned the gavel over to Ms. Mazzi for the officer election process.</p> <p><b>A. Presentation of the Slate of Candidates</b> Acting Nominating Committee Chair Moira Mazzi presented the slate of officers as adopted by the committee on July 11, 2023, to reelect Elizabeth Hilscher as Chair and to elect Kendall Lee as Vice Chair.</p> <p><b>B. Nominations from the Floor</b> Ms. Mazzi asked for any nominations from the floor; there were none.</p> <p><b>C. Election</b> <i>On a motion from Cindy Lamb and a second from Blake Andis, Ms. Hilscher was reelected as Chair. On a motion from Ms. Graser and a second from Elizabeth Hilscher, Dr. Lee was elected as Vice Chair.</i></p> <p><b>D. Passing of the Gavel</b> Ms. Mazzi passed the gavel back to Ms. Hilscher.</p>
<b>Commissioner’s Report</b>	At 9:51 a.m., Nelson Smith gave his report, updating the State Board on the six pillars of the Governor’s initiative, “Right Help, Right Now Plan,” to address behavioral health challenges, encompassing crisis care, law enforcement burden, substance use disorder support, behavioral health workforce, and service delivery innovation.

	<p>In addition to Right Help, Right Now, Mr. Smith reminded members of the commissioner’s DBHDS agency strategic plan to help make broad systematic improvements in the areas of workforce, the continuum of care, and system modernization. The agency published a dashboard on the DBHDS website. He updated the members on state hospitals, the US DOJ Settlement Agreement with Virginia, the Medicaid Developmental Disability Waiver Wait List, efforts to addressing and preventing substance use disorder including the <a href="#">Opioid Abatement Authority</a>.</p>
<p><b>Facility Tours</b></p>	<p>At 10:15 a.m., Ms. Hilscher announced that the meeting would suspend while board members toured portions of both Central State Hospital (CSH) and Hiram Davis Medical Center (HDMC) with Dr. Brandi Justice and Dr. Jarvis Griffin, respectively. The tours followed by lunch. The meeting would resume at 12:30 p.m.</p>
<p><b>Lunch: Break and Collect Lunch</b></p>	<p><i>A lunch break was held from 12:00 p.m. to 12:28 p.m.</i></p>
<p><b>Facility Presentation: HDMC</b></p>	<p>At 12:28 p.m., Dr. Jarvis Griffin, Director, reported that HDMC opened in 1975 to be the medical center within DBHDS. The facility provides acute medical, skilled, and long-term care services to individuals served by DBHDS facilities and individuals with intellectual or other developmental disabilities within the community. The catchment area is statewide. HDMC operate 94 beds: 4 acute medical, 40 nursing facility, 50 skilled nursing.</p> <p>Dr. Jarvis reviewed the various accreditations, certifications, and affiliations held by the facility. Inpatient services include:</p> <ul style="list-style-type: none"> <li>• Pharmacy and laboratory (for HDMC and CSH).</li> <li>• OT/PT, speech-language pathology, social work, dental, recreation, radiology, respiratory therapy, and dental services. <ul style="list-style-type: none"> <li>○ Behavioral health support: Behavioral health technicians and contract psychiatrists and psychologists.</li> <li>○ Pre/post-surgical and operating room for dental cases and minor surgeries: General anesthesia and deep sedation.</li> </ul> </li> <li>• End-of-life comfort care is also provided. Hospice services are provided through contracts with private hospice providers.</li> </ul> <p>Dr. Jarvis reported on outpatient services, the population data of individuals who receive services, budget allocations and expenses, data on staffing and discharges, placement challenges for long-term care, electronic interoperability, and innovative programs. He also reviewed plans for space optimization and modernization, and other building improvements.</p> <p>Dr. Jarvis particularly highlighted that there were zero COVID-19 fatalities throughout the public health emergency. Susan Alabanza, Clinical Director, and Robert Primmer, Assistant Finance Director, also provided comment.</p>

<p><b>Facility Presentation: CSH</b></p>	<p>At 12:56 p.m., Dr. Brandi Justice, CSH Director, reported first on the plans for the facility that would be set on a smaller parcel of 50 acres. The rest of the property will be surplussed. The site work started early 2023 and is scheduled for completion in Fall 2026. The new hospital will be 475,000 square feet, with a census of 111 maximum security beds (unchanged) and 141 civil beds (down from 166). The design has a lot of natural light and plants to create a feeling of a healing space. The treatment malls will have a dining, market café, clothing, and other shopping. The staffing and safety on living units is improved through staff site lines to be able to see all of a unit. Hallways will be shorter, sound barriers, fewer people in each unit, and other design details for healing and safety. There are community rooms in the lobby area so that events can be hosted to provide opportunity for the community to get to know more about CSH.</p> <p>Dr. Justice reviewed facility operations, bed capacity and designation, the civil and maximum security forensic programs, budget and expenses, and staff recruitment and retention efforts. Also, she reviewed challenges: Staffing levels in several departments; census pressures; increase in patients with complex medical needs; an aging infrastructure; and rising pharmacy costs. She mentioned successes including creation of a Director of Health Technology to lead the goal of infrastructure modernization. This position is the first of its kind in DBHDS.</p> <p>Originally purposed for African Americans, the first individuals (373) were transferred in 1885 to the hospital. The inpatient population grew such that in the 1960s more than 4,000 individuals received services.</p>
<p><b>Update: Virginia Association of Community Services Boards</b></p>	<p>At 1:17 p.m., Jennifer Faison, Executive Director, VACSB, reported on the association's activities. VACSB is developing budget priorities for the coming year, but it is difficult as the current budget is pending finalization. Nevertheless, the work continues.</p> <p>Each services council had meetings in May and June to tell VACSB what it is that they need to be able to do their jobs better. Workforce is going to remain the number one priority going into the next General Assembly session. (level of pay, and recruitment and retention, but also building in a request for funding for scholarships, student loan repayments, and clinical supervision hours - either funding to allow the CSB's to grow in their own shop or to purchase it from another entity).</p> <p>All association members are excited about the potential for Virginia to move to become a CCBHC state as certified community behavioral health clinic state. Ms. Faison stated Ellen Harrison, DBHDS Chief Deputy Commissioner, has been an amazing champion and a force in trying to reignite that here in Virginia. Since initially discussed, things have changed include implementation of</p>

	<p>STEP-VA. The prospective payment system would allow CCBHCs would be able to be paid the actual cost for the service to be delivered, with a big lift from DMAS (and a restructured payment system). DBHDS set up several workgroups to talk through these kinds of issues, including quality measures. SAMSHA just put out updated criteria for CCBHCs.</p> <p>She chooses to remain hopeful that the association will get every dollar needed to do the best that can be done for the folks that are being served in all parts of the system, not just in the community, but also in the state facilities.</p>
<p><b>2023 Post-Session Updates</b></p>	<p>At 1:29 p.m., Nathan Miles, Chief Financial Officer, reported that as there was not yet a final budget, so updates were limited while things are pending. He reviewed what the Finance Division was doing to develop budget requests for the coming year. The RHRN initiative is driving the requests, and many of those are cross-agency.</p> <p>At 1:32 p.m., Ms. Josie Mace, Legislative Affairs Director, reported that looking ahead to next session, proposals were due internally the previous week. Unlike the budget request which are public, legislative proposals are still considered Governor’s confidential working papers, so agencies are not allowed to share outside of the agency until they go through the approval process with the Secretary, with the Department of Planning and Budget, and the Governor’s Office, and become introduced bills. DBHDS is hopeful for a legislative package this year that represents the commissioner’s and agency’s priorities that address the problems facing the system right now and includes things like RHRN, reducing the forensic population in state hospitals, and the overall state hospital bed census, continuing development of the workforce, and reducing regulatory burden.</p> <p>For the remainder of the summer and in the fall, legislative efforts will continue to connect Commissioner Smith with legislators through one-on-one meetings and monitoring legislative committees, boards, and commissions.</p> <p>Ms. Mace reported that work continues in required legislative workgroups from the 2023 session. Finally, she reminded the board that there will be major turnover in the General Assembly this year; it remains unclear what the makeup of the bodies will be. However, a number of members will be moving way up in seniority in 2024, since a lot of members retiring have been in the Senate or the House for quite a while. DBHDS is focusing efforts to maintain those relationships until after Election Day when there will be a lot of new members to inform about the system and DBHDS.</p>
<p><b>Committee Reports</b></p>	<p><b>C. Policy and Evaluation</b></p> <p>At 1:35 p.m., Ms. Hilscher segued to Ms. Graser and Ms. Mace to report on the Policy and Evaluation Committee. Ms. Graser background information was shared on Nicole Gore on</p>

	<p><u>1004(SYS)83-7</u> Prevention Services. Updates are expected on that policy. Also, terminology updates were expected for <u>1010(SYS)86-7</u> Board Role in the Development of the Department's Comprehensive State Plan for Mental Health, Mental Retardation, and Substance Abuse Services. Minimal revisions were confirmed for <u>1023(SYS)89-1</u> Workforce Cultural and Linguistic Competency.</p> <p>At the next meeting, the committee will hear from the lead staff on <u>1015(SYS)86-22</u> Services for Individuals with Co-Occurring Disorders.</p> <p><b>D. Planning and Budget</b>  Ms. Hilscher asked Ruth Anne Walker to report on the Planning and Budget Committee. Ms. Walker stated that with the appointment of Ms. Lamb it was the first time in 18 months the committee had a full contingent of four members.</p> <p>Biennial Priorities: There was a review of the biennial planning meeting draft list of priorities for the upcoming biennium. The committee made some tweaks to the draft language, which the full board confirmed earlier in this meeting.</p> <p>Bylaws: The committee reviewed the bylaws to include changes to the Virginia Freedom of Information Act (FOIA) and the committee reviewed two subsections from FOIA, § 2.2-3708.2 and 2.2-3708.3. regarding more restrictions for members being able to participate remotely for personal reasons that are separate from a member's own medical issue, being a caregiver for a family member, or for geographic distance. The all-virtual meeting is still allowed outside of an emergency, but the board will have to adopt a policy on how that will work, and the board cannot conduct two consecutive all-virtual meetings. It is now in state law that public bodies are encouraged to have hybrid meetings to allow as much participation as possible. The revisions will come to the committee in September, make final edits, and revised draft bylaws will come to the board in December.</p>
<p><b>Regulatory Actions</b></p>	<p>At 1:41 p.m., Ms. Walker asked for approval of the following regulatory actions:</p> <p><b>I. Periodic Review Result; and Initiation of Proposed Stage: Operation of the Individual and Family Support Program [12VAC35-230].</b>  <i>On a motion from Christopher Olivo and a second by Varun Choudhary, the proposed stage was approved.</i></p> <p><b>II. Exempt Final: Licensing Regulations [12VAC35-105-40] for Amendments per <a href="#">HB679</a> (2020) to Application Requirements.</b>  Susan Puglisi, Regulatory Research Specialist, provided background on the exempt action. Exempt actions do not follow the standard process because there is no discretion on the part of the agency in</p>

	<p>terms of the language that is implemented into the regulations as the Code of Virginia is prescriptive about what these regulations need to say. This changes the application requirements, essentially requiring a disclosure from provider applicants of their legal name, dates of services provided in other states, and any sanctions, revocations, etc. Jae Benz, Licensing Director, was available for any questions.</p> <p><i>On a motion by Varun Choudhary and a second by Mr. Olivo, the action was approved.</i></p> <p><b>III. Fast Track: Streamline Training Center Regulations (Rescind 12VAC35-190; combine into 12VAC35-200).</b></p> <p>Ms. Walker provided a summary explanation. Kimberly King, Community Integration Manager, was available for any questions. <i>On a motion by Ms. Graser and a second by Ms. Lamb, the fast track action was approved.</i></p> <p><b>IV. Change Action Type: Licensing Regulations, [12VAC35-105]: Mobile Medication Assisted Treatment (MAT)</b></p> <p>Ms. Puglisi stated that upon further review from the Office of the Attorney General that, due to the fact it is a permissive program and providers are not required to participate in it and the agency is not required to promulgate these regulations, it was decided that this was not exempt language.</p> <p><i>On a motion by Ms. Mazzi and a second by Ms. Graser, the change of action type was approved.</i></p> <p><b>V. Regulatory Activity Status Update.</b></p> <p>Ms. Walker directed members to the status update and noted additional regulatory meetings listed as well as the usual update.</p>
<p><b>Update: Forensics</b></p>	<p>At 2:03 p.m., Angela Torres, Senior Director of Forensics Services, stated for background that she is clinical psychologist and a certified forensic psychologist. Her experience comes from working mostly in corrections (jails; state and federal prisons; and probation) and forensic hospitals. She began at CSH in 2007 as a postdoctoral fellow, continuing on treatment teams, the forensic evaluation team, and as the chief forensic coordinator. More recently, she was the Region 4 jail team manager for two years until coming in 2016 to the DBHDS Central Office as the forensic evaluation manager, prior to the more recent change to her current position.</p> <p>She reviewed that ‘forensics’ is the intersection of behavioral health (clinical) and the criminal justice (law and criminal justice procedures) systems. Individuals in the ‘forensic’ population are typically under a criminal court order of some type ordering an evaluation or treatment.</p>

	<p>There are 22 staff in the Division of Forensic Services:</p> <ul style="list-style-type: none"> <li>• Office of Forensic Services.</li> <li>• Office of Sexually Violent Predators.</li> <li>• Juvenile Behavioral Health and Justice.</li> <li>• Juvenile Competency Restoration.</li> <li>• Forensic Evaluation and Oversight.</li> </ul> <p>Key points:</p> <ul style="list-style-type: none"> <li>• Virginia's (and most other states) mental health system is now mostly forensic.</li> <li>• The increase in incarcerated individuals with behavioral health disorders, and in turn forensic admissions, is a symptom of a larger public health issue.</li> <li>• More community-based care options are needed so that people do not have to access mental health services only or primarily through the criminal justice system.</li> <li>• Forensic admissions are primarily driven by treatment orders for incompetent defendants, with a significant proportion of them facing only very minor charges.</li> <li>• DBHDS is working with stakeholders to identify ways to reduce forensic admissions through legislative changes and education.</li> </ul> <p>Ms. Graser if the restoration process is fast tracked when someone is held for a misdemeanor crime. Dr. Torres responded there is no 'fast track,' but individuals are given treatment as quickly as possible. The Code of Virginia does allow a carve out for trespassing, disorderly conduct and petty larceny in that if restoration is supposed to be limited to 45 days, after 45 days a report must be submitted to say whether or not the individual has been restored or not at that point in time; often the court finds the person unrestorable if they are deemed incompetent, and then can either be discharged or civilly committed. Therefore, the individual is moved to civil commitment and no longer 'forensic.'</p> <p><i>Presentation available upon request.</i></p>
<p><b>State Human Rights Committee</b></p>	<p>At 2:27 p.m., Taneika Goldman, State Human Rights Director, presented the recommendations of the State Human Rights Committee for two new members and the reappointment of an existing member.</p> <p>The two new appointments include Renee Valdez, to fill a code mandated position as an individual with lived experience, and John Shepherd as a professional with many years of experience tangential to the services that the department provides. Both come highly recommended by both the Office of Human Rights and the members of the State Human Rights Committee for reasons outlined in the packet, but primarily because both have served on several local human rights committees and understand the importance of the due process aspect of these committees.</p>



	<p>The reappointment is Will Childers, for his second full term. He filled a vacancy, and then has completed his first full term. The SHRC stated that if there was a favorite, it would be Mr. Childers.</p> <p>Ms. Hilscher stated she read the applications and the recommendation letter from the SHRC Chair and found that as usual all candidates seemed highly qualified. She remembered Mr. Childers from a previous board meeting. <i>On a motion by Sheriff Andis and a second by Ms. Graser, the three names were approved en bloc.</i></p>
<b>Public Comment</b>	At 2:30 p.m., Ms. Hilscher stated a period for public comment was included on the draft agenda, but there were no citizens signed up to speak.
<b>Miscellaneous</b>	<p><b>A. Confirmation of Biennial Priorities.</b> At 9:40 a.m., members reviewed edits to the first and last of the six priorities developed at the Biennial Planning Meeting, as recommended by the Planning and Budget Committee. <i>On a motion by Dr. Choudhary and a second by Sheriff Andis the draft priorities were approved.</i></p> <p><b>B. Liaison Updates.</b> At 9:48 a.m., Dr. Lee reported receiving an to attend two Mental Health Awareness Days sponsored by Crossroads Community Services Board on May 6th in Farmville VA and May 20th in Blackstone VA. He had a chance to meet with staff and had a follow up meeting planned with Dr. Melba Moore, Executive Director. Draft revisions to liaison assignments would be updated and brought to the board for confirmation in September.</p> <p><b>C. Other Business.</b> At 9:46 a.m., meeting dates through July 2025 were confirmed. (See list of dates below.) <i>On a motion by Ms. Lamb and a second by Dr. Lee the dates were approved en bloc.</i></p> <p><b>D. 2023 September Meeting Date.</b> Wednesday, September 27, 2023.</p>
<b>Adjournment</b>	There being no other business, Ms. Hilscher adjourned the meeting at 2:32 p.m.

### MEETING SCHEDULE

DATE*	Location
<b>2023</b>	
<b>September 27 (Wed)</b>	Piedmont Geriatric Hospital and VCBR <b>Burkeville</b>
<b>December 6 (Wed)</b>	Central Office <b>Richmond</b>

2024	
April 3 (Wed)	<i>TBD but not Richmond</i>
July 17 (Wed)	Eastern State Hospital <b>Williamsburg</b>
September 25 (Wed)	<i>TBD but not Richmond</i>
December 11 (Wed)	Central Office <b>Richmond</b>
2025	
April 2 (Wed)	<i>TBD but not Richmond</i>
July 9 (Wed)	Central Office <b>Richmond</b>



# COMMONWEALTH of VIRGINIA

NELSON SMITH  
COMMISSIONER

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## MEMORANDUM

**To:** Members, State Board of Behavioral Health and Developmental Services

**Fr:** Ruth Anne Walker, Director of Regulatory Affairs

**Date:** September 16, 2023

**Re:** Three Regulatory Action Items and the Regulatory Activity Status Report

**I. Action Item. Final Stage: Regulations for Childrens Residential Facilities, 12VAC35-46: QRTP.**

**Background:** Through [Item 318. D.](#) of the 2021 Special Session 1 Appropriation Act, the General Assembly mandated promulgation of emergency regulations to amend the Regulations for Children's Residential Facilities [12VAC35-46] to align with the requirements of the federal [Family First Prevention Service Act \(FFPSA\)](#) for children's residential service providers who accept [Title IV-E funding](#) to meet the standards as qualified residential treatment programs (QRTPs). Providers who do not accept Title IV-E funding shall not be affected by this action.

On September 29, 2021, the State Board promulgated emergency language that became effective on January 10, 2022, with an original expiration date of July 9, 2023. To allow for completion of the permanent process, the emergency regulation was extended to a final expiration date of January 8, 2024. The State Board initiated the proposed stage on March 30, 2022. The department received input from the Department of Social Services (DSS) and the Department of Medical Assistance Services (DMAS) in the development of this action.

**Purpose:** The purpose of this regulatory action is to align DBHDS Regulations for Children's Residential Facilities with the requirements of the FFPSA to require providers

who accept [Title IV-E funding](#) to meet the standards as QRTPs. The final action must be effective by January 8, 2024. The language is unchanged from the previous stage.

**Action Requested:** Initiate the final stage of the standard process.

VAC Citation	Title	Last Activity	Date
12 VAC 3546	<a href="#">Regulations for Childrens Residential Facilities</a>	<a href="#">Emergency</a>	02/20/2021

**Next Steps:**

If approved, staff initiates the [final](#) stage of the action.



## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Behavioral Health and Developmental Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC35-46
<b>VAC Chapter title(s)</b>	Regulations for Children’s Residential Facilities
<b>Action title</b>	Amend regulations to align with the requirements of the FFPSA
<b>Date this document prepared</b>	September 16, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Department of Behavioral Health and Developmental Services (DBHDS) was mandated by the 2021 General Assembly within [Item 318. D.](#) of the 2021 Special Session 1 Appropriation Act to promulgate emergency regulations to amend the Regulations for Children's Residential Facilities [[12VAC35-46](#)] to align with the requirements of the federal [Family First Prevention Service Act \(FFPSA\)](#) for children’s residential service providers who accept [Title IV-E](#) funding to meet the standards as qualified residential treatment programs (QRTPs). The department received input from the Department of Social Services (DSS) and the Department of Medical Assistance Services (DMAS) in the development of this action. The goal of this action is to make permanent the changes made through [emergency regulations](#) promulgated on September 29, 2021, by the State Board of Behavioral Health and Developmental Services that amended the regulations to align with the FFPSA to meet the standards of QRTPs.

### Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

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Department of Behavioral Health and Developmental Services – DBHDS

Department of Medical Assistance Services – DMAS

Department of Social Services – DSS

Family First Prevention Service Act – FFPSA

Psychiatric Residential Treatment Facility -- PRTF

Qualified Residential Treatment Programs – QRTPs

State Board – State Board of Behavioral Health and Developmental Services

### **Statement of Final Agency Action**

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The State Board voted on **September 27, 2023**, to initiate the final stage of the action titled “Amend regulations to align with the requirements of the FFPSA [12VAC35-46]” with no edits to the language from the proposed stage to the final stage.

### **Mandate and Impetus**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

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The 2021 General Assembly mandated the State Board of Behavioral Health to promulgate emergency regulations through Item 318 D of the 2021 Special Session 1 Appropriation Act. This action is intended to make permanent the changes made through emergency regulations promulgated on September 29, 2021, by the State Board of Behavioral Health and Developmental Services that amended the regulations to align with the FFPSA to meet the standards of QRTPs.

### **Legal Basis**

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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Through Item 318. D. of the 2021 Special Session 1 Appropriation Act (Chapter 552), the General Assembly mandated the State Board of Behavioral Health to promulgate emergency regulations that align with the requirements of the federal Family First Prevention Service Act. Section [37.2-203](#) of the Code of

Virginia gives the State Board of Behavioral Health and Developmental Services the authority to adopt regulations that may be necessary to carry out the provisions of Title 37.2 of the Code of Virginia and other laws of the Commonwealth administered by the DBHDS Commissioner. The State Board of Behavioral Health and Developmental Services voted to adopt emergency regulations on September 29, 2021. This action makes permanent those regulations. The State Board of Behavioral Health and Developmental Services voted to adopt this final stage regulatory action on **September 27, 2023**.

## Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

The purpose of this regulatory action is to align DBHDS Regulations for Children's Residential Facilities with the requirements of the federal Family First Prevention Service Act to require providers who accept Title IV-E funding to meet the standards as QRTPs. Providers who do not accept Title IV-E funding shall not be affected by this action.

FFPSA includes reforms to child welfare financing streams by providing prevention services to families of children who are at imminent risk of entering foster care. It seeks to underscore the importance of children growing up in families and seeks to avoid the traumatic experience of children being separated from their families and entering foster care. Specifically, federal reimbursement will be available for trauma-informed mental health services, substance use disorder treatment, and in-home parenting skill training to safely maintain in-home family placement. FFPSA also aims to improve the well-being of children already in foster care by safely reducing placement of children in non-family based settings (e.g., residential treatment programs), and instead increasing placement of children in the least restrictive, most family-based setting appropriate to their individual needs. FFPSA created a specific nonfamily-based placement type called a QRTP, along with a structure around placing children in these types of placements. QRTPs serve children with specific treatment needs who need short term placement out of the home. Federal funding for foster youth with specific treatment needs will only be available for nonfamily-based placements that qualify as a QRTP.

## Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

This regulatory action amends Chapter 46 to align with the requirements of the federal FFPSA to require providers who accept Title IV-E funding to meet the standards as QRTPs. Providers who do not accept Title IV-E funding shall not be affected by this action. QRTPs are required to have a trauma-informed treatment model; have registered licensed nursing staff and licensed clinical staff who are available 24 hours a day and seven days a week; facilitate outreach to the family members of the child; facilitate participation of family members in the child's treatment program; provide or arrange discharge planning and family-based aftercare support for at least six months post-discharge; be licensed; and be accredited by an independent, not-for profit, accrediting organization approved by the US Secretary of Health and Human Services.

## Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community,*

government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage of the regulatory change is children’s residential licensing regulations that incorporate best practices, help to enhance support services for families, increase the number of children who remain at home, and build the capacity of communities to support children and families. This is an advantage to the public, the agency, and the Commonwealth. There are no known disadvantages to the agency or the Commonwealth. The primary disadvantage is that some providers may experience a financial burden in order to comply with the new regulations. However, providers have been aware for at least two years of the eventual changes brought in these regulations and providers that do not accept Title IV-E funding shall not be affected by this regulatory change. Further, as these are federal requirements, the department does not have much discretion in the manner in which they are enacted.

### Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

The proposed regulatory action aligns Chapter 46 with the requirements of the federal FFPSA. None of the requirements of the regulatory action are more restrictive than applicable federal requirements.

### Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

#### Other State Agencies Particularly Affected

DSS and DMAS will be affected by this regulatory action. As a result, the department received significant input from the DSS and the DMAS in the development of this action.

#### Localities Particularly Affected

None identified at this time.

#### Other Entities Particularly Affected

Families of children who are at imminent risk of entering foster care.

### Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Town Hall Comment	Agency Response
Anonymous	QRTP Discharge- Before imposing discharge requirements for residential facilities, please consider how this will be funded as the daily rate for Medicaid ends	The discharge care requirements are federal requirements. In addition, the department is not a payor; therefore funding questions should be directed to the Department of Medical Assistance Services (DMAS). The



	once a youth discharge from a facility. How are providers meant to pay for this discharge care?	department shall forward the commenter's concern on to DMAS.
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## Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

No changes were made since the previous stage was published.

## Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
N/A	12VAC35-46—1260. <u>Qualified Residential Treatment Programs.</u>	None.	Intent: Adding the requirements of a Qualified Residential Treatment Program (QRTP).  A qualified residential treatment program shall: <ul style="list-style-type: none"> <li>• Have a trauma-informed treatment model.</li> <li>• Have registered or licensed nursing staff and other clinical staff who are available 24 hours a day and 7 days a week.</li> <li>• Facilitate outreach to family members as appropriate.</li> <li>• Facilitate participation of family members in the child's treatment program.</li> <li>• Provide or arrange discharge planning and family-based aftercare support for at least six months post discharge.</li> <li>• Be licensed.</li> <li>• Be accredited by an independent, not-for profit accrediting organization approved by the US Secretary of Health and Human Services.</li> </ul>

			Impact: Compliance with the General Assembly mandate, alignment with federal law, enhancement of support services for families, providing assistance to allow children to remain at home, and build the capacity of communities to support children and families.
N/A	12VAC35-46-1270. <u>Additional requirements for QRTP placements for children within the custody of local social service boards.</u>	Nonet.	<p>Intent: Adding the requirements of documentation of the need for placement in a QRTP.</p> <p><i>The QRTP shall coordinate with the VDSS, family, and others. Documentation shall be placed within the child's record at the QRTP. This section does not apply to direct parental placements of children into the QRTP that are made outside of the social services system.</i></p> <p>Impact: Compliance with the General Assembly mandate, alignment with federal law, enhancement of support services for families, providing assistance to allow children to remain at home, and build the capacity of communities to support children and families.</p>

## **II. Action Item. Revised Language for Proposed Stage: Operation of the Individual and Family Support Program [12VAC35-230].**

**Background:** The Department of Behavioral Health and Developmental Services (DBDHS) was directed by the 2022 General Assembly within [Item 313.NN](#) of the 2022 *Appropriation Act* (Chapter 2, 2022 Special Session 1 Acts of Assembly) to utilize emergency authority to promulgate regulations that change the current distribution of annual Individual and Family Support Program (IFSP) funds from a ‘first-come-first-served’ basis to one based on program categories and set criteria. Specifically, DBDHS is authorized to create an annual public input process that shall include a survey of needs and satisfaction in order to establish plans for the disbursement of IFSP funding in consultation with the IFSP State Council. Based on the Council's recommendation and information gathered during the public input period, the department will draft program guidelines to establish annual funding priorities. The department will establish program criteria for each of the required program categories and publish them as part of annual IFSP guidelines developed collaboratively by the department and the department's IFSP State Council. Additionally, program guidelines shall establish eligibility criteria, the award process, appeals processes, and any other protocols necessary for ensuring the effective use of state funds. All criteria will be published prior to opening the funding opportunity.

**Periodic Review Result:** Pursuant to the ORM procedures and § 2.2-4007.1 of the *Code of Virginia*, the agency conducted a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment was sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

This action has no economic impact on small businesses consistent with the stated objectives of applicable law. The amended language is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia:

- 1) There is a continued need for the regulation in order to meet the legislative mandate.
- 2) No comments were received concerning the regulation.
- 3) The complexity of the regulation is streamlined and straightforward regarding what the department must do on an annual basis to set criteria for the distribution of funds.
- 4) There is no overlap, duplication, or conflict with federal or state law or regulation.
- 5) The periodic review was postponed intentionally to coincide with this action. The mandate from the General Assembly is the only factor that changed in the area affected by the regulation.

**Changes by the Virginia Registrar:** **As reported in July**, there were no additional amendments requested for the [proposed stage of the permanent action](#). However,

recall that information in the current regulation was moved to a 'guidelines' document and referenced in the amended language for this action. As part of the Code-mandated authority of the office, prior to publication as an emergency regulation, the Virginia Registrar acted to make a technical change of the Guidelines from a guidance document to a [Document Incorporated by Reference \(DIBR\): Department of Behavioral Health and Developmental Services, Individual and Family Support Program Guidelines, DD 07, Version January 9, 2023](#). This change was confirmed by the Office of the Attorney General on June 12, 2023. Minor, nonsubstantive edits were made at the same time by the Registrar to conform the regulatory language to properly reference the DIBR before publication.

**Purpose:** The goal of this regulatory action is to facilitate compliance with the U. S. Department of Justice's Settlement Agreement with Virginia (United States of America v. Commonwealth of Virginia, Civil Action No. 3:12cv059-JAG) (<https://dbhds.virginia.gov/doj-settlement-agreement/>).

The State Board promulgated an emergency/NOIRA action July 13, 2022. An [emergency regulation](#) became effective on January 19, 2023, and will expire on July 17, 2024. **The State Board promulgated a proposed stage on July 12, 2023, which was filed but remains at the Office of the Attorney General in the first step of the Executive Branch Review process.**

**REVISIONS:** Naming the specific guidelines document in the regulations required that the guidelines be filed with the body of the regulation text as a document incorporated by reference (as described above). However, because of the requirements for an annual review process, there is no way to annually review, and when needed update, a DIBR through regulatory action in such a tight timeframe. Nothing about the process as previously adopted by the State Board would change, but by 'softening' the language to reference the award 'procedures' without naming the guidelines document, the department can meet the annual review requirements. The annual development process and public comment is unchanged; drafts will be posted on the agency website and linked to a General Notice on Town Hall with a public comment forum, and the final version will be published on the website and in a General Notice when ready before the next funding cycle. Once the language was reviewed again for this purpose, other minor nonsubstantive corrections or clarifications were made in the language.

**Action Requested:** Approve the revised language for the same action for the proposed stage of the [standard process](#) to eliminate the need for a DIBR.

VAC Citation	Title	Last Activity	Date
<a href="#">12 VAC 35-230</a>	<a href="#">Operation of the Individual and Family Support Program</a>	<a href="#">Emergency</a>	01/19/2023

**Next Steps:** If approved, staff updates the language for the proposed stage through the project in the Regulatory Information System (RIS), and the Office of the

Attorney General will receive the updated language and proceed with the review process.

**Proposed: SEPTEMBER 2023 EDITS**

**Amendments to establish criteria and annual funding priorities through the Annual Funding Program Guidelines and ensure public input.**

12VAC35-230-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Commissioner" means the Commissioner of the Department of Behavioral Health and Developmental Services.

"Custodial family member" means a family member who has primary authority to make all major decisions affecting the individual and with whom the individual primarily resides.

"Department" means the Department of Behavioral Health and Developmental Services.

"Developmental disability" or "DD" means a severe, chronic disability of an individual that:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments, other than a sole diagnosis of mental illness;
2. Is manifested before the individual ~~attains age~~ reaches 22 years of age;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care; (ii) receptive and expressive language; (iii) learning; (iv) mobility; (v) self-direction; (vi) capacity for independent living; ~~and~~ or (vii) economic self-sufficiency; and
5. Reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. ~~(42 USC § 15002)~~

An individual from birth to age nine years, inclusive, who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting three or more of the criteria described in subdivisions 1 through 5 of this definition if the individual, without services and supports, has a high probability of meeting those criteria later in life.

"Family member" means an immediate family member of an individual receiving services or the principal caregiver of that individual. A principal caregiver is a person who acts in the place of an immediate family member, including other relatives and

foster care providers, but does not have a proprietary interest in the care of the individual receiving services. (§ 37.2-100 of the Code of Virginia)

~~"Individual and Family Support" means an array of individualized items and services that are intended to support the continued residence of an individual with intellectual or developmental disabilities (ID/DD) in his own or the family home.~~

~~"Intellectual disability" or "ID" means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean; and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills. (§ 37.2-100 of the Code of Virginia)~~

"IFSP Guidelines" means "The Department of Behavioral Health and Developmental Services Individual and Family Support Program Guidelines," DD 07, Version January 9, 2023, as incorporated by reference into this chapter.

"Individual and Family Support Program" or "IFSP" means an array of individualized person-centered and family-centered resources, supports, items, services, and other assistance approved by the department that are intended to support the continued residence of an individuals with developmental disabilities who is are on the waiting list for a Medicaid Home and Community-Based Services Developmental Disability Waiver ("Medicaid HCBS DD Waiver") in the each individual's own home or the family home, which includes the home of the principal caregiver.

"Individual and Family Support Program State Council" or "IFSP State Council" means an advisory group of stakeholders selected by the department that shall provide consultation to the department on creating a family support program intended to increase the resources and supports for individuals and families and promote community engagement and coordination. The IFSP State Council shall include individuals with DD and family members of individuals with DD.

12VAC35-230-20. Program description.

~~A. The Individual and Family Support Program assists individuals with intellectual disability or developmental disabilities and their family members to access needed person-centered and family-centered resources, supports, services, and other assistance as approved by the department. As such, Individual and Family Support Program funds shall be distributed directly to the requesting individual or family member or a third party designated by the individual or family member. B. The overall objective of the Individual and Family Support Program is to support the continued residence of an individuals with intellectual or developmental disabilities in his that each individual's own home or the family home, which include includes the home of a principal caregiver.~~

B. The department shall operate administer the IFSP funding awards directly or through a third party designated by the department to administer all or part of the IFSP, based on guidelines annual funding priorities and program criteria developed collaboratively by the department and in consultation with the department's IFSP State Council.

C. Individual and Family Support Program IFSP funds shall be distributed directly to the requesting individual or custodial family member or a third party designated by the individual or custodial family member. IFSP funds shall not supplant or in any way limit the availability of services provided through a Medicaid Home and Community-Based DD Waiver, Early and Periodic Screening, Diagnosis, and Treatment, or similar programs.

12VAC35-230-30. Program eligibility requirements. (Repealed.)

Eligibility for Individual and Family Support Program funds shall be limited to individuals who are living in their own or a family home and are on the statewide waiting list for the Intellectual Disability (ID) Medicaid Waiver or the Individual and Family Developmental Disabilities Support (IFDDS) Medicaid Waiver and family members who are assisting these individuals.

12VAC35-230-31. Community coordination.

The department shall:

1. Ensure an annual public input process that encourages the continued residence of individuals on the waiting list for a Medicaid Home and Community-Based HCBS DD Waiver in community settings and includes a survey of needs and satisfaction.

2. Establish the IFSP State Council.

3. Develop, in coordination with the IFSP State Council, a strategic plan that is consistent with this chapter and the purpose of the IFSP and that is updated as necessary as determined by the department.

4. Provide technical assistance to individuals or family members to facilitate an individual's or a family member's access to covered services and supports listed in 12VAC35-230-55 that are intended to enhance or improve the individual's or family member's quality of life and promote the independence and continued residence of an individual with DD in the individual's own home or the family home, which includes the home of a principal caregiver.

12VAC35-230-35. Program eligibility requirements and policies.

A. Eligibility for IFSP funds shall be limited to individuals who are living in their own home or a family home and are on the statewide waiting list for a Medicaid Home and Community-Based HCBS DD Waiver and their custodial family members who are assisting those individuals.

B. The department, based on information gathered through public input and in collaboration consultation with the IFSP State Council, shall annually establish eligibility criteria as published in the IFSP Guidelines, the award process, the appeals process, and any other protocols necessary for ensuring the effective use of state funds. All procedures used by the department for determining funding awards shall be published annually in the IFSP Guidelines draft form for public comment and in final form prior to opening the funding opportunity.

C. For each funding period, the department shall develop and publish base funding awards on the following published information on the IFSP:

1. Criteria for prioritized funding categories;

2. A summary of allowable expenditures;

3. Application deadlines; and

4. Award notification schedules.

D. The IFSP Guidelines All procedures used by the department for funding awards shall be reviewed and updated annually.

12VAC35-230-40. Program implementation. (Repealed.)

~~A. Individual and Family Support Program funds shall be limited by the amount of funds allocated to the program by the General Assembly. Department approval of funding requests shall not exceed the funding available for the fiscal year.~~

~~B. Based on funding availability, the department shall establish an annual individual financial support limit, which is the maximum annual amount of funding that can be provided to support an eligible individual during the applicable fiscal year.~~

~~C. Individual and Family Support Program funds may be provided to individuals or family members in varying amounts, as requested and approved by the department, up to the established annual individual financial support limit.~~

~~D. On an annual basis, the department shall announce Individual and Family Support Program total funding availability and the annual individual financial support limit for the applicable fiscal year. This announcement shall include a summary of covered services, the application, and the application review criteria.~~

~~E. Individuals and family members may submit applications for Individual and Family Support Program funding as needs arise throughout the year. Applications shall be considered by the department on a first-come, first-served basis until the annual allocation appropriated to the program by the General Assembly for the applicable fiscal year has been expended.~~

~~F. Individuals and their family members may apply for Individual and Family Support Program funding each year and may submit more than one application in a single year; however, the total amount approved during the year shall not exceed the annual individual financial support limit.~~

12VAC35-230-45. Program implementation.

A. IFSP funds shall be limited by the amount of funds allocated to the IFSP by the General Assembly. The department approval of funding requests shall not exceed the funding available for the fiscal year. Based on information gathered through relevant data and public input, and in collaboration with the IFSP State Council, the department shall establish annual funding categories.



B. IFSP funds may be provided to individuals or custodial family members in varying amounts, as determined by the department's annually prioritized funding categories.

~~12VAC35-230-50. Covered services and supports. (Repealed.)~~

~~Services and items funded through the Individual and Family Support Program are intended to support the continued residence of an individual in his own or the family home and may include:~~

- ~~1. Professionally provided services and supports, such as respite, transportation services, behavioral consultation, and behavior management;~~
- ~~2. Assistive technology and home modifications, goods, or products that directly support the individual;~~
- ~~3. Temporary rental assistance or deposits;~~
- ~~4. Fees for summer camp and other recreation services;~~
- ~~5. Temporary assistance with utilities or deposits;~~
- ~~6. Dental or medical expenses of the individual;~~
- ~~7. Family education, information, and training;~~
- ~~8. Peer mentoring and family-to-family supports;~~
- ~~9. Emergency assistance and crisis support; or~~
- ~~10. Other direct support services as approved by the department.~~

12VAC35-230-55. Covered services and supports.

Services and items funded through the IFSP, as published in the IFSP Guidelines annually in accordance with this chapter, are intended to support the continued residence of an individual in that individual's own home or the family home and may include be approved in the following three main categories (i) safe community living, (ii) improved health outcomes, and (iii) community integration. No services or items shall be funded by the IFSP if not listed in the IFSP Guidelines department's procedures or if covered by another entity.

~~12VAC35-230-60. Application for funding. (Repealed.)~~

~~A. Eligible individuals or family members who choose to apply for Individual and Family Support Program funds shall submit a completed application to the department.~~

~~B. Completed applications shall include the following information:~~

- ~~1. A detailed description of the services or items for which funding is requested;~~
- ~~2. Documentation that the requested services or items are needed to support the continued residence of the individual with ID/DD in his own or the family home and no other public funding sources are available;~~
- ~~3. The requested funding amount and frequency of payment; and~~

4. A statement in which the individual or family member:

a. Agrees to provide the department with documentation to establish that the requested funds were used to purchase only approved services or items; and

b. Acknowledges that failure to provide documentation that the requested funds were used to purchase only approved services or items may result in recovery of such funds and denial of subsequent funding requests.

C. The application shall be signed by the individual or family member requesting the funding.

12VAC35-230-65. Application for funding.

A. Eligible individuals or custodial family members who choose to apply for IFSP funds shall submit a completed application to the department.

B. Completed applications shall include the following information:

1. A description of the services or items for which funding is requested;

2. Acknowledgment that the requested services or items are needed to support the continued residence of the individual with DD in that individual's own home or the family home and no other public funding sources are available;

3. The requested funding amount; and

4. A statement in which the individual or custodial family member:

a. Agrees to provide to the department, if requested, documentation that the requested funds were used to purchase only services or items described in the application and approved by the department; and

b. Acknowledges that failure to provide documentation, when requested, that the funds applied for were used to purchase only services or items described in the application and approved by the department may result in recovery of such funds and denial of subsequent funding requests.

C. The application shall be signed by the individual or custodial family member requesting the funding.

12VAC35-230-70. Application review criteria. (Repealed.)

Upon receipt of a completed application, the department shall:

1. Verify that the individual is on the statewide ID or IFDDS Medicaid Waiver waiting list;

- ~~2. Confirm that the services or items for which funding is requested are eligible for funding in accordance with 12VAC35-230-50;~~
- ~~3. Determine that the services or items for which funding is requested are needed to support the continued residence of the individual with ID/DD in his own or the family home;~~
- ~~4. Determine that other public funding sources have been fully explored and utilized and are not available to purchase or provide the requested services or items;~~
- ~~5. Evaluate the cost of the requested services or items; and~~
- ~~6. Consider past performance of the individual and family members regarding compliance with this chapter.~~

12VAC35-230-75. Reporting.

A. For each funding period, the department shall develop and publish a summary that details the total dollar amount of funded awards, a summary of expenditure requests, the number of applications received, and the number of applications and individuals approved for receipt of IFSP funds.

B. The department, with input from the IFSP State Council, shall develop an annual summary of accomplishments toward meeting the goals of the Virginia State Plan to Increase Individual and Family Supports.

~~12VAC35-230-80. Funding decision-making process. (Repealed.)~~

~~A. Applications may be approved at a reduced amount when the amount requested exceeds a reasonable amount as determined by department staff as being necessary to purchase the services or items.~~

~~B. Applications shall be denied if the department determines that:~~

- ~~1. The service or item for which funding is requested is not eligible for funding in accordance with 12VAC35-230-50;~~
- ~~2. The request exceeds the maximum annual individual financial support limit for the applicable fiscal year;~~
- ~~3. Other viable public funding sources have not been fully explored or utilized;~~
- ~~4. The requesting individual or family member has not used previously received Individual and Family Support Program funds in accordance with the department's written notice approving the request or has failed to comply with these regulations; or~~
- ~~5. The total annual Individual and Family Support Program funding appropriated by the General Assembly has been expended for the applicable fiscal year.~~

~~C. The department shall provide a written notice to the individual or family member who submitted the application indicating the funding decision.~~

~~1. Approval notices shall include:~~

- ~~a. The services, supports, or other items for which funding is approved;~~
- ~~b. The amount and time frame of the financial allocation;~~
- ~~c. The expected date that the funds should be released; and~~
- ~~d. Financial expenditure documentation requirements, and the date or dates by which this documentation shall be provided to the department.~~

~~2. For applications where funding is denied or approved at a reduced amount, the department's notice shall state the reason or reasons why the requested services, supports, or other items were denied or were approved at a reduced amount and the process for requesting the department to reconsider its funding decision.~~

12VAC35-230-85. Funding decision-making process.

A. Applications shall be denied if the department determines that the service or item for which funding is requested is not eligible for funding in accordance with 12VAC35-230-55, other public funding sources are available, or the total annual IFSP funding appropriated by the General Assembly has been expended for the applicable fiscal year.

B. Additionally, ~~potential grounds for denial shall include~~ applications for IFSP funds may be denied if the requesting individual or custodial family member has not used previously received IFSP funds in accordance with the department's written notice approving the request or has failed to comply with this chapter.

C. The department shall provide a written notice to the individual or custodial family member who submitted the application indicating the funding decision, including the reason for denial of funding, if applicable.

12VAC35-230-90. Requests for reconsideration.

A. Individuals or custodial family members who disagree with the determination of the department may submit a written request for reconsideration to the commissioner, or ~~his~~ the commissioner's designee, within 30 days of the date of the written notice of denial or approval at a reduced amount.

B. The commissioner, or ~~his~~ the commissioner's designee, shall provide an opportunity for the person requesting reconsideration to submit for review any additional information or reasons why the funding should be approved as originally requested.

C. The commissioner, or ~~his~~ the commissioner's designee, after reviewing all submitted materials shall render a written decision on the request for reconsideration within 30 calendar days of the receipt of the request and shall notify all involved parties in writing. The ~~commissioner's~~ decision shall be binding.

D. Applicants may obtain further review of the decision in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

12VAC35-230-100. Post-funding review.

A. Utilization review of documentation or verification of funds expended may be undertaken by department staff. Reviews may include home visits to view items purchased or services delivered.

B. Individuals and family members receiving ~~Individual and Family Support Program~~ IFSP funds shall permit the department representatives to conduct utilization reviews, including home visits.

C. Individuals and family members receiving ~~Individual and Family Support Program~~ IFSP funds shall fully cooperate with such reviews and provide all information requested by the department.

D. Failure to use funds in accordance with the ~~department's written notice~~ IFSP Guidelines procedures for funding awards or provide documentation, if requested, that the funds were used to purchase only approved services or items as described in the application and approved by the department may result in recovery of such by the department.

12VAC35-230-110. Termination of funding for services, supports, or other assistance.

Funding through the ~~Individual and Family Support Program~~ IFSP shall be terminated when the individual is enrolled in the ~~ID or IFDDS a Medicaid~~ Home and Community-Based (HCBS) DD Waiver, if the individual is found to be no longer eligible to be on a waiting list for a Medicaid HCBS DD Waiver in accordance with 12VAC30-122-90 and any appeal has been exhausted, or if approved funds are used for purposes not approved by the department in its written notice. In such circumstance, Any funds approved, but not yet released, will be forfeited in such circumstances shall not be disbursed.

Documents Incorporated by Reference (12VAC35-230)

[Department of Behavioral Health and Developmental Services, Individual and Family Support Program Guidelines, DD-07, Version January 9, 2023](#)

**III. Action Item. Required Periodic Review: Requirements for Virginia's Early Intervention System [12VAC35-225].**

(See the flow chart of the process: <http://townhall.virginia.gov/UM/chartperiodicreview.pdf>)

**Background:** Existing regulations must be examined at least every four years to review statutory authority and assure that the regulations do not exceed the Board's statutory authority. Investigation should be conducted for any alternatives to the regulation and any need to modify the regulation to meet current needs.

**Purpose:** The regulation is submitted to the State Board for consideration for review as required. It provides the requirements for Virginia's early intervention services system that are designed to protect the health, safety, and welfare of children with disabilities from birth through the age of two and their families to ensure access to appropriate early intervention services. It also implements Part C of the Individuals with Disabilities Education Act at 20 U.S.C. § 1435(a) and at 34 C.F.R. Part 303 in Virginia.

The last periodic review was conducted in October 2019. Following that review, a [fast track](#) was promulgated.

**Action Requested:** Direct that a periodic review is initiated for the following regulations.

<b>VAC Citation</b>	<b>Title</b>	<b>Last Review</b>
12 VAC 35-225	<a href="#">Requirements for Virginia's Early Intervention System</a>	<a href="#">10/10/2019</a>

**Next Steps:**

If approved, staff initiates the periodic review. At the conclusion of the 21-day (minimum) comment period, staff develops recommended Board action on the regulations for. The choices for action are:

- A. Propose to retain the regulation in its current form.
- B. Propose to abolish (rescind) the regulation.
- C. Propose to amend the regulation.

## I. REGULATORY ACTIVITY STATUS REPORT: SEPTEMBER 2023 (REVISED 09/16/23)

Board		STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES		
VAC CITATION	CHAPTER TITLE (FULL TITLE)	REGULATIONS IN PROCESS		
		PURPOSE	STAGE	STATUS
12 VAC 35-46 Certain sections <b>and NEW</b> Sections 1150-1250.	<b>Regulations for Children's Residential Facilities</b>	In accordance with Item 318.D. of the 2021 Appropriation Act to align with the requirements of the federal Family First Prevention Service Act to meet the standards as qualified residential treatment programs (QRTPs).	<ul style="list-style-type: none"> <li><b>Emergency: To Standard.</b></li> </ul>	<ul style="list-style-type: none"> <li>Effective 01/10/22. <b>Extended emergency expires 1/8/2024.</b> Proposed stage complete.                             <ul style="list-style-type: none"> <li><i>Final stage requested. It must be filed for a 30 day forum no later than 11/14 to publish on 12/4 to be effective before emergency expires.</i></li> </ul> </li> </ul>
12 VAC 35-46 Certain sections <b>and NEW</b> Sections.	<i>same</i>	To provide the process and standards for licensing children's residential facilities.	<ul style="list-style-type: none"> <li><b>Draft in progress.</b></li> </ul>	<ul style="list-style-type: none"> <li>Public comment closed 5/16/2022. <i>Amend (overhaul); draft in progress.</i></li> </ul>
12 VAC 35-46 Certain sections	<i>same</i>	'Low hanging fruit' to comply with EO1, removing noncontroversial language.	<ul style="list-style-type: none"> <li><b>Fast Track draft in progress.</b></li> </ul>	<ul style="list-style-type: none"> <li><i>Expect in December.</i></li> </ul>
<u>12 VAC 35-105</u> Certain sections.	<b>Rules and Regulations for Licensing Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services</b>	Amendments to incorporate federal Drug Enforcement Administration (DEA) final rule permitting DEA registrants who are authorized to dispense methadone for opioid use disorder to add a "mobile component" to their existing registrations; due to provider interest in supplying these mobile medication assisted treatment (mobile MAT) services.	<ul style="list-style-type: none"> <li><b>Fast Track.</b></li> </ul>	<ul style="list-style-type: none"> <li>The exempt final action filed 12/8/2022 was deemed to not be exempt by the OAG; withdrew original action and shifted to fast track in July. At OAG.</li> </ul>
<u>12 VAC 35-105</u> Section 40.	<i>same</i>	In accordance with HB 597 (2020), amendments to incorporate new requirements for initial applications for service providers licensed by the DBHDS requiring a statement of certain information including previous negative actions.	<ul style="list-style-type: none"> <li><b>Final Exempt.</b></li> </ul>	<ul style="list-style-type: none"> <li>Initiated 7/17/23. At OAG.</li> </ul>
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>	'Low hanging fruit' to comply with EO1, removing noncontroversial language.	<ul style="list-style-type: none"> <li><b>Fast Track draft in progress.</b></li> </ul>	<ul style="list-style-type: none"> <li><i>Expect in December.</i></li> </ul>

<a href="#"><u>12 VAC 35-115</u></a>	<b>Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services</b>	To protect the legal and human rights of all individuals who receive services in programs and facilities operated, funded, or licensed by DBHDS.	<ul style="list-style-type: none"> <li>• <b>Draft in progress.</b></li> </ul>	<ul style="list-style-type: none"> <li>• A public comment forum closed on 01/25/2021. <i>Amend; draft in progress. Informal review by the OAG continues.</i></li> </ul>
<a href="#"><u>12 VAC 35-190</u></a>	<b>Regulations for Voluntary Admissions to State Training Centers</b>	To detail criteria and procedures for voluntarily admitting persons to a state training center. ↓↓	<ul style="list-style-type: none"> <li>• <b>Fast Track.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Action initiated in July. At OAG.</li> </ul>
<a href="#"><u>12 VAC 35-200</u></a>	<b>Regulations for Emergency and Respite Care Admission to State Training Centers</b>	To establish the conditions and procedures ↑↑ through which an individual can access emergency services and respite care in a state training center.	<ul style="list-style-type: none"> <li>• <b>Fast Track action requested.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Action initiated in July. At OAG.</li> </ul>
<a href="#"><u>12 VAC 35-210</u></a>	<b>Regulations to Govern Temporary Leave from State Facilities</b>	To establish the general process and requirements related to temporary leave from state facilities	<ul style="list-style-type: none"> <li>• <b>Draft in progress.</b></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Amend minimally; draft in progress. Expect in December.</i></li> </ul>
<a href="#"><u>12 VAC 35-230</u></a>	<b>Operation of the Individual and Family Support Program</b>	In accordance with the mandate in <a href="#"><u>Item 313.NN.</u></a> of the 2022 Special Session 1 Appropriation to facilitate compliance with the U. S. Department of Justice’s Settlement Agreement with Virginia by establishing criteria, annual funding priorities, and to ensure annual public input.	<ul style="list-style-type: none"> <li>• <b>Emergency/NOIRA and periodic review.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Proposed stage filed 7/13/2023. <ul style="list-style-type: none"> <li>➤ <i>Action requested: Approve revised proposed language.</i></li> </ul> </li> </ul>
<a href="#"><u>12 VAC 34-260</u></a>	<b>Certified Recovery Residences</b>	To implement the changes in the Code of Virginia per <a href="#"><u>HB 277/SB 622</u></a> (2022) regarding DBHDS certification, minimum square footage, and disclosure of credentialing entity.	<ul style="list-style-type: none"> <li>• <b>Fast track in progress.</b></li> </ul>	<ul style="list-style-type: none"> <li>• DPB review completed 7/19/2023. At HHR.</li> </ul>



STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

**Planning and Budget Committee**

***DRAFT MINUTES***

JULY 12, 2023

8:30-9:25 AM

DBHDS CENTRAL STATE HOSPITAL, BUILDING 113, ROOM 222  
PETERSBURG, VA

*This meeting was held in person with a physical quorum present, with electronic or phone connection available. A recording of the meeting is available.*

**Members Present:** Elizabeth Hilscher, Board and Committee Chair; R. Blake Andis; Cindy Lamb; Christopher Olivo.

**Members Absent:** (none).

**Staff Present:** Ruth Anne Walker.

**I. Call to Order**

At 8:34 a.m., Elizabeth Hilscher called the meeting to order and announced a quorum present.

**II. Welcome and Introductions**

At 8:35 a.m., Ms. Hilscher welcomed all present. She appointed Cindy Lamb to the committee.

**III. Adoption of Minutes, March 29, 2023**

At 8:37 a.m., on a motion from Christopher Olivo and a second from Blake Andis the meeting minutes from March 29, 2023, were adopted unanimously. Ms. Lamb abstained as she was not on the board at that time.

**IV. Adoption of Agenda, September 27, 2023**

At 8:38 a.m., on a motion from Christopher Olivo and a second from Cindy Lamb the agenda was adopted unanimously.

- V. Standing Item:** *Identification of services and support needs, critical issues, strategic responses, and resource requirements to be included in long-range plans; work with the department to obtain, review, and respond to public comments on draft plans; and monitor department progress in implementing long-range programs and plans. Ensure that the agency's budget priorities and submission packages reflect State Board policies and shall, through the Board's biennial planning retreat, review and comment on major funding issues affecting the behavioral health and developmental services system, in accordance with procedures established in POLICY 2010 (ADM ST BD) 10-1.*

**A. Review from the July 11, 2023, Biennial Planning Meeting: Draft priorities for the biennium and draft topic areas for board meeting updates September 2023 - July 2025.**

At 8:40 a.m. Ms. Hilscher explained that it is typical for the committee to review the draft language from the planning meeting before it goes to the full board to have an opportunity to look for any needed corrections or edits. Members

reviewed the list of draft priorities developed the day before and made recommended edits for changes, including an edit regarding compensation and consideration of incorporation of best practices into Virginia's temporary detention order law through comparison of other states laws.

**VI. Other Business**

**A. Discuss 2023 expected changes to the Bylaws.**

At 9:05 a.m., Ms. Walker presented draft changes to the Bylaws relating to changes in state law regarding electronic meetings. An initial draft of revisions was provided to conform to changes in state law. The committee would receive final draft amendments in September, and the full board would receive them at least 30 days before a vote in December.

**B. State Board Budget Quarterly Report. *Handout***

At 9:00 a.m., the board's quarterly budget report was reviewed.

**VII. Next Steps:**

**A. Standing Item: Report Out**

Updates from committee planning activities would be reported out to the Board in the regular meeting.

**B. Next Meeting:**

The next meeting is scheduled for September 27, 2023.

**VIII. Adjournment**

At 9:23 a.m., Ms. Hilscher adjourned the meeting.

**STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES**

**Policy and Evaluation Committee**

**DRAFT MINUTES**

JULY 12, 2023

8:30-9:25 AM

DBHDS CENTRAL STATE HOSPITAL, BUILDING 113, MAIN CONFERENCE ROOM  
PETERSBURG, VA

*This meeting was held in person with a physical quorum present,  
with electronic or phone connection available.*

**MEMBERS PRESENT:** Rebecca Graser, Committee Chair and Board Vice Chair; Varun Choudary, Kendall Lee, Moira Mazzi.

**DBHDS STAFF PRESENT:** Josie Mace, Committee Staff; Madelyn Lent, Nicole Gore (virtual).

**GUESTS PRESENT:** Chris Fleury, Medical Society of Virginia.

**I. Call to Order [Becky Graser, Committee Chair]**

Ms. Rebecca Graser called the meeting to order at 8:35 a.m.

**II. Welcome and Introductions [Becky Graser] (5 min)**

Ms. Graser welcomed all present and called for introductions.

**III. Review of 2023 Policy Review Plan and Presentation of Policies for Discussion [Becky Graser and Josie Mace] (40 min)**

Revisions

- A. [1010\(SYS\)86-7](#) Board Role in the Development of the Department's Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services (Revisions)**

Revisions were shared with committee members by Josie Mace. Committee members voted to approve the recommended revisions and move the policy forward in the process.

- B. [1023\(SYS\)89-1](#) Workforce Cultural and Linguistic Competency (Revisions)**  
Subject matter expert did not recommend any revisions for this policy.

Background

- C. [1004\(SYS\)83-7](#) Prevention Services (Background)**

Nicole Gore, Director of the Office of Behavioral Health Wellness, presented background on the policy.

- D. [1015\(SYS\)86-22](#) Services for Individuals with Co-Occurring Disorders (Background)**

Ms. Mace presented background on the policy.

**IV. Other Business (10 min)**

Ms. Graser noted that the new vice chair would be serving as committee chair beginning in September. There was no other business to come before the committee.

**V. Next Quarterly Meeting: September 27, 2023**

**VI. Adjournment**

Ms. Graser adjourned the meeting at 9:15 a.m.

All current policies of the State Board are here: <https://dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS/bhds-policies/>.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

**Planning and Budget Committee  
DRAFT AGENDA**

SEPTEMBER 27, 2023

8:30-9:25 AM

DBHDS PIEDMONT GERIATRIC HOSPITAL, AUDITORIUM  
BURKEVILLE, VA

*This meeting will be held in person and virtually. Log in information is the same as for the regular meeting of the State Board on page 2 of the meeting packet.*

- I. Call to Order**
- II. Welcome and Introductions**
- III. Adoption of Minutes, July 12, 2023**
  - *Action Required*
- IV. Standing Items:**

*Identification of services and support needs, critical issues, strategic responses, and resource requirements to be included in long-range plans; work with the department to obtain, review, and respond to public comments on draft plans; and monitor department progress in implementing long-range programs and plans.*

*Ensure that the agency's budget priorities and submission packages reflect State Board policies and shall, through the Board's biennial planning retreat, review and comment on major funding issues affecting the behavioral health and developmental services system, in accordance with procedures established in POLICY 2010 (ADM ST BD) 10-1.*

  - A. Review from the July 12, 2023, priorities for the biennium and draft topic areas for board meeting updates September 2023 - July 2025.
- V. Bylaw Review**
  - A. Review of final draft 2023 amendments to the Bylaws for consideration in September, per Article 9.c. of the Bylaws.
    - *Action Required: Approval of draft for full board review.*
- VI. Other Business**
  - A. State Board Quarterly Budget Report.
- VII. Next Steps:**
  - A. Standing Item: *Provide updates on committee planning activities to the Board.*
  - B. Next Meeting: December 6, 2023
- VIII. Adjournment**

**STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES**

**Policy and Evaluation Committee**

**DRAFT AGENDA**

SEPTEMBER 27, 2023

8:30-9:25 AM

DBHDS PIEDMONT GERIATRIC HOSPITAL, SMALL MEETING ROOM  
BURKEVILLE, VA

- I. Call to Order [Kendall Lee, Committee Chair]**
- II. Welcome and Introductions [Kendall Lee] (5 min)**
- III. Adoption of Minutes, July 12, 2023**
- IV. Review of Committee Charge and 2023 Policy Review Plan [Kendall and Josie Mace] (10 min)**
- V. Presentation of Policies for Discussion [Kendall and Josie] (40 min)**
  - A. [1004\(SYS\)83-7](#) Prevention Services (Revisions)
  - B. [1015\(SYS\)86-22](#) Services for Individuals with Co-Occurring Disorders (Revisions)
  - C. [1036\(SYS\)05-3](#) Vision Statement (Background)
  - D. [4010\(CSB\)83-6](#) Local Match Requirements for Community Services Boards (Background)
- VI. Other Business (10 min)**
- VII. Next Quarterly Meeting: December 6, 2023**
- VIII. Adjournment**

All current policies of the State Board are here: <https://dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS/bhds-policies/>

## EVENT SCHEDULE

Tuesday-Wednesday, September 26-27, 2023

<p><b>Tuesday, September 26<sup>th</sup></b></p> <p style="text-align: center;"><b><u>4:00 – 5:45 p.m.</u></b></p> <p style="text-align: center;"><b><u>6:00 – 7:30 p.m.</u></b></p>	<p><b><u>COMMUNITY DINNER MEETING</u></b></p> <p><b>BOARD MEMBER CHECK IN:</b> HOLIDAY INN EXPRESS, 404 SUNCHASE BLVD, FARMVILLE, VA 23901.</p> <p><b>DINNER MEETING</b> <b>MEETING ROOM, HOLIDAY INN EXPRESS, FARMVILLE.</b> Attendees: State Board members, DBHDS staff, Horizon CSB staff and board members, other guests. <i>No business will be conducted.</i></p>
<p><b>Wednesday, September 27<sup>th</sup></b></p> <p style="text-align: center;"><b><u>8:30 a.m.</u></b></p> <p style="text-align: center;"><b><u>9:20 a.m.</u></b></p> <p style="text-align: center;"><b><u>2:30 p.m.</u></b></p>	<p><b><u>REGULAR BOARD MEETING SCHEDULE</u></b> PIEDMONT GERIATRIC HOSPITAL, 5001 EAST PATRICK HENRY HWY, BURKEVILLE, VA 23922</p> <p><b>Committee Meetings</b> <b>Regular Meeting at 9:30 a.m. (see Agenda, p.2)</b> <b>Adjournment</b></p>

**9/26 Dinner Meeting Location:**

- The dinner will be in the meeting room of the Holiday Inn Express, 404 Sunchase Blvd, Farmville, VA 23901. Note: The 90 minute window is sharp, to allow board members sufficient rest from driving and for the next day’s activities and return drive.

**9/28 From the hotel to Piedmont Geriatric Hospital (PGH):**

- Breakfast is available at the hotel beginning at 6 a.m.; only light breakfast snacks and coffee will be available at PGH.
- Allow at least 20 minutes to drive from the Holiday Inn Express to Piedmont Geriatric Hospital, 5001 East Patrick Henry Hwy, Burkeville, VA 23922, and to park. See the aerial campus picture on the next page. Watch for the blue directional signs:



**Wednesday, September 27, 2023**

**Virginia Department of Behavioral Health and Developmental Services  
DBHDS Piedmont Geriatric Hospital, Auditorium  
5001 East Patrick Henry Hwy, Burkeville, VA 23922**

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Time: **Committees at 8:30 a.m., Regular Board Meeting at 9:30 a.m.**

- **Planning and Budget Committee** will meet in Auditorium
- **Policy and Evaluation Committee** will meet in the Small Meeting Room.

Regular Meeting Location: **Virginia Department of Behavioral Health and Developmental Services  
Piedmont Geriatric Hospital, Auditorium  
5001 East Patrick Henry Hwy, Burkeville, VA 23922**

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- **The campus includes Piedmont Geriatric Hospital and the original and new VCBR buildings. The location for the committee meetings and Regular Board Meeting is in Piedmont Geriatric Hospital. Follow campus directional signs for the hospital. Here is an aerial view of the campus:**



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If you have any questions about the information in this meeting packet, contact Ruth Anne Walker, [ruthanne.walker@dbhds.virginia.gov](mailto:ruthanne.walker@dbhds.virginia.gov), 804.225-2252.