Virginia Regulatory Town Hall

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# Final Regulation
# Agency Background Document

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| **Agency name** | State Board of Behavioral Health and Developmental Services |
| **Virginia Administrative Code (VAC) citation** | 12 VAC 35 -105-10 et seq. |
| **Regulation title** | Rules and Regulations for ~~the~~ Licensing ~~of~~ Providers by the Department of ~~Mental Health, Mental Retardation, Substance Abuse, The Individual and Family Developmental Disabilities Support Waiver, and Residential Brain Injury~~ Behavioral Health and Developmental Services |
| **Action title** | Amend the regulations |
| **Date this document prepared** | September 24, 2010 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

## Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

This action updates the regulations to reflect the recent recodification of Title 37.1 to 37.2. The language has been revised to throughout the regulations to be consistent with the system's mission and goals of person-centered planning, recovery and the empowerment of individuals receiving services. Provisions have been added to strengthen the ability of the licensing authority take disciplinary action or to impose restrictions when providers fail to comply with licensing standards and deny licenses to applicants under certain conditions, when appropriate. The licensing requirements and definitions have been updated throughout to reflect current practice and other relevant regulations and laws. The most significant changes to the regulations from the published proposed regulations include:

- Modifications to reflect recent (2010) Medicaid regulatory changes and
- Clarifications regarding professional qualifications and provider staffing requirements that are based on the intensity and nature of the services being provided.

## Statement of final agency action

*Please 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.*

On September 14, 2010, the State Board of Behavioral Health and Developmental Services adopted the *Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services* 12 VAC 35 -105-10 et seq for final promulgation.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The State Board of Behavioral Health and Developmental Services has the authority under Va. Code § 37.2-837.B to promulgate *Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services*.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

This action is necessary to increase the protections for the health, safety and welfare of individuals receiving services from licensed providers. These revisions strengthen the ability of the Department of Behavioral Health and Developmental Services (DBHDS) to deny applications for licensing, revoke licenses, and restrict the activities of provider applicants that do not meet service standards during the provisional period. The agency has determined that these updates are needed to resolve issues pertaining to the regulation of service areas where problems have occurred.

These revisions also update the definitions for consistency with other regulations of the Board and with the current mission of the DBHDS, which includes the provision of person-centered planning, and goals of recovery and self-determination for individuals receiving services. Updates will also ensure that the regulations reflect current standards of practice, statutes, and regulatory requirements.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

Revised language throughout the regulations to reflect the concepts of person-centered planning, recovery and the empowerment of persons receiving services.

Updated requirements to be consistent with Mental Health Reform laws and Medicaid regulations

Eliminated the provision requiring an audit every three years and replaced it with a provision that DBHDS may require an audit should the circumstances warrant it.

Removed the requirement that group homes must be inspected by the Health Department. (The DBHDS Office of Licensing will continue its routine inspections of kitchens in group homes as part of the licensing process.)

Adjusted the timeframe for submitting a certificate of occupancy and floor plan to be more economical for provider applicants.

Limited the occupancy of shared bedrooms in a Medicaid waiver group home to two individuals.

Reduced the maximum number of beds allowed in a community intermediate care/mental retardation facility (ICF/MR) from 20 to 12 beds.

Reduced the supervision ratio from 20 to 15 residential homes.

Added a requirement for stocking a three-day supply of food as recommended by the Virginia Department of Emergency Management.

Modified the definitions of Qualified Mental Health Professional (QMHP), and Qualified Mental Retardation Professional (QMRP).to be consistent with the Department of Medical Assistance Services (DMAS) regulations. Deleted the definitions of Qualified Developmental Disabilities Professional and Qualified Brain Injury Professional. Revised definitions of QMHPs to differentiate between professionals providing adult and children services and professionals who meet the educational requirements, but lack the necessary experience. The definition of QMRP allows appropriate experience to substitute for a degree, while the minimum requirement of bachelor degree is retained in definitions of QMHP-A, QMHP-C, and QMHP-E.

Updated the quality improvement process to require providers to obtain input from individuals receiving services about their satisfaction with their participation in ISP development.

Added a requirement that a history of trauma and abuse be included as part of the comprehensive assessment.

Allowed for a state or federally sanctioned standardized assessment to substitute for the required assessment in the regulations as long as the standardized assessment incorporates certain health and safety issues.

Relocated to the beginning of the ISP section the requirement for the participation of the individual receiving services in the ISP development to stress the importance of this participation.

Increased the timeframe for completion of a comprehensive ISP related to developmental services from 30 to 60 days after admission.

Changed terminology from “behavior management” to “behavior interventions.”

Strengthened the requirements for sponsor residential homes. The regulations now outline the requirements for sponsor agreements.

Added requirements for licensing sponsor residential services for children according to a recent opinion from the Office of the Attorney General which indicated that DBHDS may license this service.

Enhanced the requirements for case management services.

## Issues

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

This action poses no disadvantages to the public or the Commonwealth. The changes have been made to make these regulations more consistent with the needs of individuals receiving services, providers, and the agency's mission. The regulatory requirements have been clarified when appropriate to facilitate their application and to promote and better understanding for users. The provisions have also been modified to reduce implementation costs for providers and the agency whenever possible and to resolve identified problem areas.

## Changes made since the proposed stage

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| 20 | The definition of the following terms were somewhat unclear or inconsistent with other terminology or language usage:<br>Behavior intervention<br>Brain Injury<br>Care<br>Case management services<br>Community intermediate care facility/mental retardation (ICF/MR)<br>Co-occurring services<br>Crisis<br>Day support services<br>Discharge<br>Group home or community residential service<br>Home and noncenter based<br>Individual<br>Individualized service plan<br>Investigation<br>Medication error<br>Mental Health Community Support Service (MHCSS)<br>Mental retardation (intellectual disability) | Inclusion of minor, non-substantive or editorial revisions in the definitions of these terms. | The revisions were made in response to public comments, for clarity, or for consistency with use of language in other parts of the regulations |

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| | Outpatient services<br>Partial hospitalization service<br>Program of Assertive Community Treatment (PACT)<br>Provider<br>Qualified Paraprofessional in Mental Health (QPPMH)<br>Recovery<br>Seclusion<br>Serious Injury<br>Service<br>Social detoxification service<br>Sponsored residential home<br>Substance abuse<br>Supervised living residential service<br>Therapeutic day treatment for children and adolescents<br>Time out | | |
| 20 | Deleted the following definitions:<br>Brain Injury Waiver | Removal of the definitions from the final regulations | Brain Injury Waiver does not currently exist |
| | Clubhouse services | | Clubhouse services is no longer an applicable service |
| | Corporal punishment | | The revisions were made in response to public comments -- As an illegal activity, corporal punishment can not be regulated. |
| | Day treatment services | | Day treatment is a category of services already defined in the regulations |
| | Plan of care | | Plan of care is defined in the regulations as an ISP, so no additional definition is needed |
| 20 | Changed the following definitions:<br>Intensive outpatient service | Revised title is Substance abuse intensive outpatient service | Intensive outpatient services are limited to substance use disorders |
| | Managed withdrawal services | Revised title is Medically managed withdrawal services | The recommended title change reflects federal and state service descriptions |
| | Opioid treatment service | Revised title is Medication assisted treatment (opioid treatment services) | The recommended title change reflects federal and state service descriptions |
| | Psychosocial rehabilitation | Revised title is Psychosocial rehabilitation service | The recommended title change reflects federal and state service descriptions |
| | Qualified Mental Health Professional (QMHP) | Revised title is Qualified Mental Health Professional-Adult (QMHP-A) | The recommended title change reflects federal and state personnel descriptions |
| | Added the following definitions:<br>Clinical experience | Additional definitions added to the final regulations | The new definitions recommended for inclusion in the regulations reflect federal and state personnel descriptions |
| | Qualified Mental Health Professional-Child (QMHP-C) | | |
| | Qualified Mental Health Professional-Eligible (QMHP-E) | | |
| | Qualified Mental Retardation Professional (QMRP) | | |
| 30 | Provides a description of the services that are licensed by DBHDS. | Updated and edited the description of the services that are subject to licensing | To respond to public comments and assure clarity and consistency with the current statutory requirements. |
| 40 | Lists the requirements for provider license | Inclusion of minor editorial revisions for | To respond to public comments and |

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| | applications. | clarity | assure clarity and consistency with the current statutory requirements |
| 50 | Provides the requirements for issuing licenses. | Removed the provision that a licensing stipulation could designate a provider expertise | OAG guidance that the Department should not stipulate a provider's expertise. |
| 60 | Provides for modification of licenses. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 90 | Specifies the requirements determining level of compliance. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 100 | Provides for sanctioning non-compliant providers. | Updated the Department name | Correction was missed in proposed changes |
| 110 | Lists provisions for denial, revocation, or suspension of a license. | Addition of an additional reason for denial, revocation or suspension of license: Submitting misleading or false information to the department | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 115 | Provides requirements for issuing an order of summary suspension of a license. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 150 | Lists other applicable laws and regulations for compliance. | Addition of Virginia Department of Medical Assistance Services regulations | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 155 | Provides requirements for pre-admission screening, discharge planning, involuntary commitment, and mandatory outpatient treatment orders. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 160 | Describes the review process and provider requirements for reporting to the agency. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 170 | Provides for corrective action plans when a provider is cited for noncompliance with the regulations. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 180 | Provides for notifications of various provider changes | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 210 | Includes requirements for providers to document that financial resources are available to provide service operations. | Addition of a requirement that providers notify the department when significant reductions occur in lines of credit or other financial arrangements | The recommended title change reflects federal and state service descriptions |
| 240 | Requires the provider to have policies on funds of individuals receiving services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 270 | Provides requirements for building modifications. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 280 | Provides requirements for provider's physical environment. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 290 | Includes provisions for food service inspections. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 340 | Provides requirements for bedrooms. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 360 | Provides standards for privacy for individuals receiving services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| 400 | Includes requirements for criminal registry checks. | Inclusion of an additional Code reference | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 420 | Provides requirements for employee and contractor qualifications. | Addition of a requirement that staff demonstrate a working knowledge of the policies and procedures related to responsibilities | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 440 | Provides requirements for orientation of personnel. | Addition of person centeredness to the personnel orientation topics | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 450 | Provides requirements for training and development. | Addition of infection control to the personnel training topics | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 460 | Provides requirements for medical or first aid training. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 480 | Provides requirements for personnel performance requirements. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 490 | Provides for written grievance policy. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 500 | Provides policy for students and volunteers. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 520 | Requires risk management functions by providers. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 530 | Provides requirements for emergency preparedness and response plan. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 540 | Provides requirements for emergency telephone access. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 580 | Provides requirements for service descriptions. | Removed the requirement that providers have a written plan that conforms to National Standards on Culturally and Linguistically Appropriate Services (CLAS) | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 590 | Provides provider staffing plan requirements. | ▪ Revision of supervision standards for behavioral health services based on the nature of the service being provided<br>▪ Revision of supervision standards for developmental services to allow substitution for educational credentials<br>▪ Removal of the proposed requirement that a provider have a written plan on cultural and linguistic competency<br>▪ Removal of supervision requirements currently numbered 9,10,and 11<br>▪ Inclusion of minor editorial revisions for clarity | The recommended section changes reflect federal and other state requirements |
| 600 | Provides requirements for preparing and serving food. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 610 | Requires community activities be available for individuals receiving services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 620 | Provides requirements for monitoring and evaluating service quality | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with |

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| | | | the current statutory requirements |
| 645 | Provides general requirements for screening, admissions, service planning policies, etc. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 650 | Requires the provider to develop a policy for assessing persons prior to admission to a service and conduct comprehensive follow-up assessments. | ▪ Modify completion timeframe for behavioral health and developmental service assessments<br>▪ Removal of reproductive history as a required element of an assessment<br>▪ Removal of the six-month record retention requirements<br>▪ Removal of the requirement to assist individuals who are not scheduled for further assessment or who are not admitted to identify other appropriate services<br>▪ Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 660 | Requires the development of individualized services plans (ISPs). | ▪ Modify completion timeframe for completion of behavioral health and developmental service ISPs<br>▪ Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 665 | Provides detailed requirements for comprehensive ISPs. | Deletion of the requirement that ISPs include discharge goals and inclusion of minor edits for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 675 | Requires reassessments to be completed annually. | Clarification of timeframe expectations for ISP review | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 680 | Provides requirements for progress notes. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 690 | Provides requirements for providers to orient individuals receiving services. | Removal of the requirement to include physical plant or building lay-out in the orientation and inclusion of minor edits for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 691 | Provides requirements for transition of individuals among service. | Removal of the requirement to include service descriptions in the transfer summary and inclusion of minor edits for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 693 | Provides requirements for discharge. | Clarification that discharge policies and procedures must be written and inclusion of minor edits for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 700 | Provides requirements to address emergency interventions. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 720 | Provides policies for medical and health care for individuals receiving services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 740 | Provides requirements for physical examinations. | Clarification that physical examinations for required for individuals receiving residential and inpatient service | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 750 | Provides requirements for emergency medical information. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 770 | Provides requirements for medication management. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| 790 | Provides requirements for medication administration and storage. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 800 | Provides policies and procedures for behavior management. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 810 | Requires a behavioral treatment plan. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 820 | Describes prohibited actions by providers. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 830 | Provides requirements for seclusion, restraint and time-out. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 870 | Provides requirements for a records management policy. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 880 | Provides documentation policy. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 890 | Provides requirements for an individual's service record. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 900 | Provides for record storage and security. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 910 | Provides requirements for retention of service records. | Removal of the requirement that providers permanently retain certain individual information | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 925 | Provides standards for opioid addiction services. | ▪ Revised title of Medication Assisted Treatment (Opioid Treatment Services)<br>▪ Removal of the requirement identified in the section as B-E<br>▪ Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 930 | Requires registration or certification of opioid addiction services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 960 | Provides requirements for physical examinations for individuals receiving services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 980 | Requires drug screens. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 990 | Provides requirements for take-home medications. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1000 | Requires provider policy to prevent duplication of opioid medication services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1170 | Describes requirements for sponsored residential home agreements. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1180 | Describes the requirements for qualification of sponsor residential home providers. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1190 | Provides sponsored residential home | Inclusion of minor editorial revisions for | To respond to public comments and |

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
|---|---|---|---|
| | service policies. | clarity | assure clarity and consistency with the current statutory requirements |
| 1200 | Provides requirements for supervision. | Reduction of the supervision ratio from 20 to 15 residential homes | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1210 | Provides requirements for sponsored residential home service records | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1235 | Provides specific requirements for residential home services for children. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1240 | Provides specific requirements for providers of case management services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1250 | Provides qualifications for case management employees or contractors. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1255 | Requires providers to have a policy for assigning case manager. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1270 | Provides licensing requirements for the physical environment of community gero-psychiatric residential services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1290 | Provides licensing requirements for providers of community gero-psychiatric residential services | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1300 | Provides licensing requirements for the staffing of community gero-psychiatric residential services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1330 | Provides licensing requirements for a medical director of community gero-psychiatric residential services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1360 | Provides admission and discharge criteria for intensive community treatment (ICT) services and programs of assertive community treatment services (PACT). | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1370 | Provides staff qualifications for ICT and PACT services. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1390 | Provides requirements for ICT and PACT services daily operation and progress notes. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1400 | Provides requirements for ICT and PACT services assessments. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |
| 1410 | Provides requirements for ICT and PACT services and documentation. | Inclusion of minor editorial revisions for clarity | To respond to public comments and assure clarity and consistency with the current statutory requirements |

## Public comment

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

| Commenter(s) | Comment | Agency Response |
|---|---|---|
| Various | Editorial comments related to consistency with Code provisions, grammatical/punctuation changes, sentence restructuring | Editorial corrections are recommended where appropriate. |
| Loudoun County CSB<br>Fairfax-Falls Church CSB<br>Henrico Area Mental Health and Developmental Services Board (Henrico CSB)<br>Paul Gilding<br>Portsmouth Department of Behavioral Healthcare Services | 14 individual comments involved establishing consistency between these regulations and DBHDS Human Rights regulations and the provisions of the DBHDS performance contract with CSBs | DBHDS agrees, in principle, with these comments and, as a result, has proposed several regulatory changes. It is important to note that consistency does not require the exact wording be replicated and that the performance contact is relevant only to CSBs, and the regulations must be broader to address needs of other public and private providers |
| VA Association for Family Preservation, Inc. (VAFP)<br>Blue Ridge Behavioral Health (BRBH)<br>Chesapeake CSB<br>Fairfax-Falls Church CSB<br>Henrico CSB<br>Rappahannock Area CSB<br>Rappahannock-Rapidan CSB<br>Family Preservation Services, Inc (FPS) | 15 individual comments involved establishing consistency between DBHDS, and DMAS regulations. | DBHDS agrees, in principle, with these comments and has proposed several regulatory changes to assure consistency with current DMAS regulations. It is important to note that consistency does not require the exact wording be replicated |
| Virginia Office for Protection and Advocacy (VOPA)<br>Fairfax-Falls Church CSB<br>The Board for People with Disabilities (VBPD)<br>Paul Gilding | 5 individual comments involved assuring person-centered terminology is incorporated into regulatory language | DBHDS agrees, in principle, with these comments and where appropriate is proposing additional regulatory changes to assure regulatory consistency with person-centered philosophy. |
| **General Definition Comments** | | |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>VOPA<br>Highlands Community Services CSB | 12 comments requested that the definitions contained in the regulations be modified to reflect definitions found in professional or advocacy literature | DBHDS agrees, in principle, with these comments and where appropriate is proposing additional regulatory changes |
| Jennifer Fidura<br>Virginia Hospital & Healthcare Association (VHHA) | 3 comments recommending that the adjective "sound" be deleted in describing services, treatments, or interventions | DBHDS is proposing that this change be made |
| Eastern Shore CSB | To ensure that it is clear that alcohol is a drug, it is suggested that the Office of Licensing in its definition of 'substance abuse' or 'substance use disorder', use the terminology 'alcohol or other drugs'. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | Currently the only place for someone with a master's degree in counseling is under psychologist or social worker. Neither is technically correct for someone with a LPC. | LPC is listed as a qualification under licensed Mental Health Professional |
| Loudon County CSB | Absence of definition for "Intellectual Disabilities" | The definition of "Mental Retardation," which is a term used in the Virginia Code, includes intellectual disability. |

| Commenter(s) | Comment | Agency Response |
|---|---|---|
| | | No change is recommended |
| VOPA | Add a definition for Crisis intervention services are mental health care, available 24 hours a day, 7 days per week, to provide assistance to individuals experiencing acute mental health dysfunction requiring immediate clinical attention. The objectives are :<br>To prevent exacerbation of a condition;<br>To prevent injury to the recipient or others; and<br>To provide treatment in the least restrictive setting.<br>Add a definition for discharge planning -- means the process of developing the discharge plan. | DBHDS feels that this definition is consistent with federal and state service definitions. No change is recommended in response to the comment. |
| **Comments on Specific Definitions** | | |
| FPS | **Admission:**<br>New definition of "admission" is an improvement | No response is necessary |
| VOPA | VOPA is concerned that the new "admission' definition is moving from specific to general in its description. Are the individual policies reviewed to ensure that they are generally the same across providers? How often and by whom are they reviewed? Additionally, we feel that policies should include a minimum of guidance regarding safe transitions between environments and other settings. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | **Brain Injury Waiver**<br>Recommends striking this language until there is a Brain Injury Waiver in place. We further recommend that any and all references to a Brain Injury Waiver be struck from these regulations for the same reason. | DBHDS is proposing that this change be made |
| Jennifer Fidura | **Community intermediate care facility/ mental retardation (ICF/MR)**<br>Delete "who are not in need of nursing care, but" | DBHDS is proposing that this change be made |
| VOPA | The definition seems to remove the state licensing requirement. The elimination of the state licensing requirement removes a necessary level of oversight and protection. | The proposed change does not remove any existing DBHDS licensing oversight or protection |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>Highlands CSB | **Clubhouse services**<br>4 comments suggested deleting definition and inserting a definition of Psychosocial rehabilitative services | DBHDS is proposing that this change be made |
| VOPA | **Corrective action plan**<br>Insert "or fully executed" between "completed" and "within" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | **Corporal punishment**<br>Delete this definition because all actions included are considered abusive and are illegal. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>VBPD<br>VOPA | **Crisis**<br>Delete “challenges”- too broad for a true crisis situation; would lead to many situation interpreted as a “crisis”<br>Suggested the definition be modified as follows: "Crisis means a *deteriorating or unstable* situation*, often developing suddenly or rapidly, that produces acute, heightened emotional…*" | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico CSB | **Crisis stabilization**<br>It isn’t clear if this includes crisis intervention (strategy), or only means crisis care (service). | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |

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| Paul Gilding | **Day support services**<br>Delete this definition -- What is a day support service that is also not another service (day treatment, psychosocial rehab, habilitation, ambulatory crisis stabilization) already defined in the regs -- this isn't a distinct service, but a category of services. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Paul Gilding | **Discharge**<br>Admission is defined as acceptance into a service, why wouldn't discharge be defined using "service" instead of "provider" which would also be consistent with "Discharge plan" | DBHDS is proposing that this change be made |
| VBPD | **Home and noncenter based**<br>Definition is unclear because of the use of term "noncenter" "noncenter" is not defined. Does "noncenter" mean "not a Training Center"? | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>Jennifer Fidura | **Individual**<br>Delete "family member, relative"- the term "individual' is used in relation to the ISP- it is confusing to include family members and relatives with the term "individual" and is too broad.<br>Insert "licensed" to describe services of the provider | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed |
| Paul Gilding | **Individualized services plan**<br>The phrase "are all considered individualized services plans" should be added at the end of the definition. As worded, this could be interpreted to mean an ISP must contain an ITP, habilitation plan, etc | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico CSB | **Instrumental activities of daily living**<br>Consider benefit of separating this from ADLs.; merge the 2 definitions | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church<br>Henrico Area<br>VOPA | **Investigation**<br>Change "violation" to "allegation". Cannot determine whether a violation occurred prior to an investigation.<br>Insert "or other agencies that provide oversight activities" at the of the definition | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed. |
| Loudoun CSB<br>Jennifer Fidura<br>Paul Gilding | **Medication Error**<br>Change (v) to say "the wrong method is used to administer medication to the individual"<br>Delete "such as" | DBHDS is proposing that this change be made |
| Paul Gilding | **Mental Health Community support Services (MHCSS)**<br>How is this different than psychosocial rehabilitation? Definition should be deleted | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax Falls Church CSB<br>Paul Gilding | **Opoid treatment service**<br>Add "this does not include inpatient, licensed medical detoxification facilities." This clarification is needed to delineate our programs, which do not administer or dispense opioids (prescription is provided)<br>This service has been re-named "Medication assisted treatment" | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed |
| VHHA | **Program of Assertive Community Treatment (PACT) services**<br>1. the term "especially" is unclear. The use of term "especially" is unclear. As used here, it can be interpreted to further limit services only to those individuals who "have severe symptoms that are not effectively remedied by available treatments or who because of reasons related to their mental illness resist or avoid involvement with mental | DBHDS is proposing that this change be made |

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| | health services." If instead it is meant simply to clarify the term "severe and persistent mental illness," we suggest use of the word "including" instead of "especially." | |
| Highlands Community Services | **Providers**<br>Providers should define the nature and frequency of supervision by LMHP | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VAFP<br>Youth Village<br>Fairfax-Falls Church CSB<br>Henrico CSB<br>Rappahannock CSB<br>Chesapeake CSB<br>FPS<br>Rappahannock-Rapidan CSB<br>Highlands CSB<br>Portsmouth CSB<br>BRBH | **Qualified Mental Health Professional (QMHP)**<br>▪ The revision includes only the QMHP working in a PACT or ICT.<br>▪ The definition is not clear as to whether QMHPs can work in intensive in-home and mental health community support services.<br>▪ List KSAs, with an allowance for years of experience<br>▪ Need to return to broader definition as originally in the regulations<br>▪ Allow QMHPs to supervise QMHPs and LMHPs to supervise LMHPs | DBHDS is proposing changes in this definition to assure consistency with Medicaid regulations |
| VOPA<br>VHHA | **Recovery**<br>Before "will need" insert ", which is not a static condition, but an evolving process in the lifespan of an individual that may/"<br>This definition uses subjective terms that are difficult for the regulated community and regulators to interpret and measure, particularly such terms as "journey of healing and transformation," "meaningful" and "positive social change" as they apply to individuals with mental illness and substance use disorders. This is aspirational language that is inappropriate in enforceable regulations, where regulants and regulators need to know minimum requirements and how to apply and measure them. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| FPS | **Related conditions**<br>Verbalizing "developmental disabilities" to this definition prepares the foundation to offer a separate license or certification for EPSDT Behavioral Treatment. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Paul Gilding | **Residential crisis stabilization**'<br>Clarify whether this means psychiatric care only.<br>Insert "nonhospitalized" before "individuals" and "experiencing an acute crisis related to mental illness substance use disorder, or co-occurring disorders that may jeopardize their current community living situation" afterwards | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>Rappahannock-Rapidan CSB<br>VHHA | **Serious injury**<br>Delete "hurt" (after "bodily")<br>Delete "injuries related to the individual's diagnosis wherever they occur". This is vague, and this is beyond what we can responsibly track/monitor.<br>Needs clarification about if serious injury must be reported regardless of who the MD, DO, NP etc works for. Not clear if we are to assume this means a CSB staff/contract physician, NP, as well as a physician at an external facility (i.e., Urgent Care Center).<br>The definition should be more limited<br>We have repeatedly expressed our concern that in defining "serious injury" as one requiring the attention of a physician. Under facility policies and procedures, a physician may see all injuries, but not all of those injuries will be serious injuries. By adding OD, PA or NP in the licensure definitions, the definition | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |

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| | of "serious injury" is expanded further. "Serious injury" may be much more precisely and accurately defined by the nature of the injury, not the identity of the individual who responds to it | |
| Fairfax-Falls Church CSB<br>Henrico CSB | **Social detoxification services**<br>Delete "excessive". Social Detox Services has been deleted from -5- if Managed Withdrawal Services is the term that will be used for all detoxification services, it should be consistent throughout the document. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Supervised living residential service**<br>This definition seems to describe our supportive residential programs fits (24 hour on-site care not provided), though it seems exclusive to mental health services. Add "treatment, counseling" to the last sentence. | DBHDS is proposing that this change be made |
| VHHA<br>FPS | **Therapeutic day treatment for children and adolescents**<br>With the overlap of this definition and that of "day treatment" and "partial hospitalization," the age limit raises concerns for partial hospitalization programs, which may serve school-age adolescents who are 18 or older.<br>Adding this definition makes a clear distinction from "day Treatment Service" | DBHDS is proposing that this change be made |
| VOPA | **Time out**<br>VOPA recommends clarification of this definition. Is the involuntary removal of an individual a type of restraint? Also, the word "open" could mean any number of things without further explanation; for example, an unlocked, closed door; an unlocked, open door; a locked wheelchair in an unlocked room with an open door. Without clarification, we are concerned that this is a form of seclusion because the definition is vague. | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed |
| Highlands Community Services | **Section 30 Licenses**<br>Application of license modification must be filed 45 days in advance<br>In reality, there are instances in which service expansion, such as day treatment to elementary schools, may develop unexpectedly. If a school were to approach us with a request to start the service after we had been encouraging them for months, and we could not move quickly on getting a license modification in less than 45 or 60 days, the school systems could easily revoke their consent. Our suggestion is to leave this issue as stated and encourage the License staff to be as responsive as possible to requests from CSB. | DBHDS agrees with this statement, no change is required. |
| VOPA | A. VOPA recommends that a timeframe in which DBHDS is to respond to applications for licenses to be added to this portion of the regulations. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Mt. Rogers Community Mental Health and Mental Retardation Services Board (Mt. Rogers CSB)<br>Paul Gilding | B.7. Club houses should not be listed under Day Treatment | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed |
| VOPA | **Section 40 Application requirements**<br>VOPA is concerned that the language is unclear. Are the provider required to provide notice when the changes occur? Or upon renewal? | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | **Section 50 Insurance of license**<br>B. add language at the end of B "because at time of issuance no individuals could have been admitted to service"<br>B.2. add language after license period "because at the time of | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |

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| | renewal the individual records available were of insufficient length to determine compliance." | |
| Portsmouth Department of Behavioral Healthcare Services | B.5. Does this permit them to serve additional people in other locations during the conditional period? Recommend that the language after "shall" be changed as follows "be limited to providing services in a single location, serving no more than four individuals during the conditional period. | DBHDS is proposing that this change be made |
| VOPA | D.2. VOPA is concerned by the lack of oversight implied by this portion of the regulations. We feel that there should be language reflecting DBHDS right to revoke license if necessary and that there should be a system in place to check providers with long term licenses for compliance. We also feel that a provider's compliance with regulations needs to be demonstrated in a consistent and comprehensive manner and that providers allowed to obtain a long term license should not be allowed to have any history of outstanding corrective actions plans. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Prince William County CSB | E. Issuance of Stipulations #1 If this change is approved it should include who will review and approve the stipulations by Licensing. It needs to come from Director and not field workers. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | **Section 60 Modification**<br>Add ",if applicable" at the end of the sentence | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| FPS | Specified lead time of 45 days notice for service modification is clearer than unspecified time | No response is necessary |
| VOPA | **Section 70 Onsite reviews**<br>VOPA is concerned by the use of the phrase "at least annually." VOPA has observed that DBHDS seems to have interpreted this language to mean once per calendar year. For example, DBHDS may complete an on-site review in January 2008 and not return for another on-site review until December 2009 leading to a gap of nearly two years worth of time between on-sire reviews. VOPA recommends that the language be changed from "at least annually" to "at least once every 12 months"<br>Additionally VOPA recommends the addition of "licensed location where the" between "each" and "service" and after "service" the phrase "is provided." Without such language in place, it is acceptable for DBHDS to review by services and not by individual locations. For example, if a provider has multiple homes or programs, the inspector is not obligated to review each location and may simply choose to only review one location. VOPA believe this loophole is damaging to oversight of these service locations. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | **Section 110 Denial, revocation or suspension of a license**<br>A5. Insert "who displays a state issued photo ID" before the phrase "to the premises | DBHDS is proposing that this change be made |
| Paul Gilding | **Section 155 Preadmission screening, predischarge planning, involuntary commitment, and mandatory outpatient treatment orders**<br>Change the title of the section and references -- "predischarge" to "discharge" and "prescreening" to preadmission screening"<br>2. plan should be singular | DBHDS is proposing that this change be made |

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| VOPA | A.2.b. VOPA feels that DBHDS needs to make an effort to ensure that these disabilities are addressed consistently throughout the regulations. We also feel that developmental disabilities and brain injuries need to be included consistently throughout these regulations. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | **Section 160 Reviews by the department; requests for information**<br>C.1. VOPA is very concerned about the removal of current regulatory language -- Because removal of the language removes the timeframes, investigations, findings and response requirement that we feel should remain intact to protect individuals' rights | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Paul Gilding<br>VHHA | C.2. Need to be more specific as to who in the department deaths or serious injuries should be reported. | DBHDS is proposing that this change be made |
| VHHA | C. The language is confusing because the items in the list that follows are reportable to different entities. Is each item to be reported to the "department" (i.e., DBHDS) as well? Clearer language would be helpful. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | F. Delete "substantively" and insert "any". The regulations should address the consequences for providing "misleading or false information | DBHDS is proposing that this change be made |
| Loudon County CSB | **Section 170 Corrective Action Plan**<br>C1. Word "systemic" may not always be correct. Also, the word "systemic" is redundant in this section.<br>Remove the word "systemic. Also it may be that the regs should identify corrective action and systemic corrective actions.<br>C2. The initial CAP is going to include both dates for items already completed.<br>Under #2, change to date of completion or proposed date of completion | DBHDS is proposing that this change be made |
| Prince William County CSB<br>Jennifer Fidura | F. The determination of the supervisor is final<br>To assure proper oversight, the appeal process should include review by the Director of Licensing, if program disagrees with Supervisor findings. | DBHDS is proposing that this change be made |
| Paul Gilding | What happens to the deadlines of D, if the provider disagrees with the determination and exercises the provisions of F? | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | G. This section of the regulations provides the details for a corrective action plan in the event that a provider has one or more issues of non-compliance. The process involves DBHDS notifying the provider of the issue(s) of non-compliance, the provider creating a corrective action plan and then submitting the plan to DBHDS who approve the plan and provide necessary documentation as requested. In no way however, is there any accountability after the final step in the process to ensure that DBHDS follows through with holding the provider accountable for the corrective action plan. VOPA recommends that following additional language be added to this section to identify DBHDS's responsibility to "ensure that the provider implements the corrective action plan." VOPA feels that DBHDS should take this section as an opportunity to define their responsibilities with regards to monitoring. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Paul Gilding | **Section 180 Notification of changes**<br>B. Can the department approval be granted verbally?<br>E. Shouldn't the "or" be "and"? | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed |
| VBPD | D. & E. only require a 30-day notice of the provider's intent to | DBHDS feels the provision as written is consistent with |

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| | discontinue services to the Department and to the individuals receiving services or their authorized representatives (AR). This time period seems inadequate for locating and obtaining alternative housing or services as well as for adequate transition for the individual with disabilities. VBPD recommends increasing the advance notice to the Department to *90* days and the notice to the individuals or their ARs to at least *60* days. | the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Paul Gilding | **Section 210 Fiscal accountability**<br>This section is not consistent with section 40 requirements | DBHDS is proposing that this change be made |
| Paul Gilding | B. 3. What does "part of a local government agency" mean? CSBs aren't part of a local government agency | No response is necessary |
| VBPD<br>VOPA | Fiscal viability of providers, especially new ones, may be more challenging in this recession. As currently written, there does not appear to be a requirement for the provider to notify DBHDS when either the financial arrangement or the line of credit has been cancelled or significantly reduced, actions which could jeopardize the provider's fiscal viability. VBPD recommends adding a requirement of provider notification to DBHDS in such a situation. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Section 240 Policy on funds of individuals receiving services**<br>C. Consider if it would be prudent for this to be waived for CSBs. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | **Section 280 Physical Environment**<br>VOPA feels that this section omits providing necessary environmental accommodations to allow for the individuals to safely access the home.<br>To account for this discrepancy, VOPA recommends that a new bullet be added which states that "Environmental Modifications must be added at the expenses of the provider for individuals 1) the provider has admitted to their service and 2) agreed to accept the applicable funding stream that allows that individual to attend. These Environmental Modifications must be documented as medically necessary and the client must have no other viable funding stream available to purchase the Environmental Modification in order to be acquired by the individual.<br>A. VOPA feels that language should be added that requires all environments to be in good repair, safe and compliant with all state and federal code and zoning requirements<br>B. VOPA feels that there should be a requirement that all providers be compliant with the ADA. DBHDS could establish a requirement that would allow currently licensed locations become accessible prior to their next renewal and make all new providers provide an assurance of accessibility as part of the licensure process.<br>E. VOPA recommends adding "in all areas used by individuals" at the end of this provision<br>F. VOPA recommends deleting "If temperatures cannot be maintained with the specified range, the provider shall make provisions for protecting individuals from injury due to scalding." As anti-scalding mechanisms are available at local hardware stores and can be put in place to prevent scalding injuries. Additionally, VOPA recommends changing the upper temperature limit to 110° in keeping with the regulations governing ICF/MRs | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church | B. Physical Environment Keep current language "The physical | DBHDS feels the provision as written is consistent with |

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| CSB<br>Henrico CSB<br>Jennifer Fidura | environment shall be appropriate to the population served and the services provided and be accessible to individuals with physical and sensory disabilities."<br>Not all sites/facilities are accessible to individuals with physical and sensory disabilities. | the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Loudoun County CSB | **Section 290 Food service inspection**<br>The language "shall request" isn't need. What the regs are getting at is obtaining approval. Change "shall request inspection and obtain" to "shall obtain." | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| MVLE | Does this apply where individuals bring their lunch and staff due to their level of disability must re-heat, serve and assist the individual with eating? Having to comply with health –food inspections for assisting individuals with lunches brought from home would be not only a burden but place day support and rehabilitation programs in a role of having to license a process (how the food is brought to the centers, storage-containers used etc) where we have no control. This section excludes residential but leaves it open to apply to day support and rehabilitation programs that simply assist individuals with their lunches or food brought from home. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | **Section 325 Community liaison**<br>Recommend omitting this regulation, or add "as appropriate." It is potentially stigmatizing and not in compliance with federal A&D confidentiality regulations (42 CFR).<br>Also, this targets residential services specifically. At a minimum, it should read "provider", not "residential service". | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VBPD | Substituting language such as "owner or manager or staff designee" would give the provider more options and flexibility regarding this role. This section appears to infer an expectation that a provider be proactive in building "cooperative", positive relationships with neighbors, police, etc. An explicit statement of the expectation(s) would help provide clearer guidance and help ensure accountability. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VBPD | Section 330 Beds<br>With this proposed regulation, the Department has an opportunity to foster a more person-centered system by limiting the number of beds allowed at a community ICF/MR. While the Board appreciates the Department's reduction in beds from 20 to 12, this proposed size does not promote a homelike environment. In addition, "at any one location" remains too general, and could allow multiple units to be built on one property. Consistent with our previous comment, the Board recommends changing the language to sub-section B to read as follows (new language in italics): "A community ICF/MR may not have more than ~~12~~ *six* beds at any one location *or on any single property*. (etc.) | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | To ensure the most integrated setting possible, VOPA is recommends the number of beds be dropped from 12 to 4 and not in the proximity of or side-by-side with another ICF/MR in the same block. The national trend in ICF/MR services appears to be setting the limit at 3 beds. Under no circumstances should an ICF/MR be any larger than 4 beds. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VBPD<br>VOPA | **Section 340 Bedrooms**<br>B. allows up to 4 individuals in a single bedroom, except for group homes. While we appreciate the reduction in group home bedroom occupancy, the high occupancy for other residential programs is not in keeping with person-centered practices. VBPD asks the Department to consider a maximum | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |

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| | occupancy of no more than 2 individuals for non-group home residential programs. If occupancy of four is maintained, addition of details on the types of residential facilities that can have that bedroom occupancy (e.g., short-term or time-limited psychiatric or substance abuse programs) would be helpful. Group homes typically become a long-term residence for an individual; and individual needs for privacy and personal space should be honored. The Board recommends that section B be revised to require single occupancy bedrooms for group homes, except when an individual prefers to have and explicitly requests a roommate. | |
| Fairfax-Falls Church CSB | In programs with a specific and expected length of stay, if the square footage allows for additional beds, we want to be able to provide services rather than keep individuals on a waiting list. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Prince William County CSB | I am not sure how 4 to a bedroom relates to Person Centered services-(I don't know what the impact on providers would be if bedrooms were limited to fewer individuals but just doesn't seem very PC) | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | C. Insert "and private" between "adequate" and "storage" | DBHDS is proposing that this change be made |
| Jennifer Fidura | **Section 400 Criminal registry checks** A. Insert "or §37.2-506, as applicable, after §37.2-416 | DBHDS is proposing that this change be made |
| Loudoun County CSB | Language here isn't the same as used elsewhere. Have regs track §37.2-416 and the Department's "Procedures for Conducting Background Investigations." | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VHHA | We urge the Board to require simply that criminal records checks be conducted as required under the statute. This seems to be the intent of Subsection A of this section. However, Subsection C of this section then exceeds the statutory requirements governing records checks set out in §37.2-416; the statute applies only to individuals hired for "compensated employment." The proposed change also applies to any offense, whereas §37.2-416 applies only to the offenses listed in the statute. Providers may, and often do, choose to exceed these requirements, but the statute does not authorize the regulations to require them. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VBPD<br>VOPA | **Section 440 Orientation of new employees, contractors, volunteers, and students** The required orientation should include person-centered principles. Later sections specifically refer to person-centeredness, and therefore provider and staff familiarity with these principles are needed. | DBHDS is proposing that this change be made |
| VHHA | **Section 450 Employee training and development** The term "fully" is subjective and not measurable and does not add to the clarity of the definition. We suggest its deletion. | DBHDS is proposing that this change be made |
| VBPD<br>VOPA | As written, this section only requires providers to have a policy on retraining on three topics: medication management, behavior management, and emergency preparedness. In light of recent health concerns about a potential flu epidemic, infection control should be added as a required retraining topic in provider policy. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Section 460 Emergency medical or first aid training** Change "nurse or physician" to "licensed medical professional" | DBHDS is proposing that this change be made |
| Loudoun County | **Section 480 Employee or contractor performance evaluation** Is contractor the correct term? If so, it should be defined in the | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to |

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| | definitions. What defines a person as a contractor in terms of the regulations may be different than other regulations (Federal laws) Define "contractor" and/or use a different definition. | the comment. |
| Fairfax-Falls Church CSB | **Section 510 Tuberculosis screening**<br>Suggest that this not be limited to SA/COD providers, add "Mental Health Residential Treatment Services" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Paul Gilding | B. Why specifying "co-occurring" | DBHDS is proposing that this change be made |
| VHHA | **Section 530 Emergency preparedness and response plans**<br>A 2. The term "Involvement" is unclear -- suggest replacing it with "coordination" | DBHDS is proposing that this change be made |
| VOPA | **Section 540 Access to telephone in emergencies; emergency numbers**<br>B. VOPA recommends adding the following language at the end of the current requirement. "In no way shall these instructions include requirements that have the potential to delay contact with emergency services." | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | **Section 580 Service description requirements**<br>J. Delete this provision | DBHDS is proposing removing the requirement upon which this comment is based, so no additional response is needed. |
| VOPA | J. Insert ", to include guidelines for contacting, obtaining, and providing interpreter and translator services" between "competency" and "that" | |
| VHHA | I. Suggested changes <u>If the provider plans to serve individuals who are subject to a temporary detention order, the provider shall submit to the department for approval a written plan for adequate staffing and security measures to ensure the individual can be served safely within the service.</u><br>If approved the department will add a stipulation to the license authorizing the provider to serve individuals who are under temporary detention orders. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico Area | To provide more information and assist with adhering to the intent of this proposed requirement, it would be helpful to add the definition of culture and CLAS standards | DBHDS is proposing removing the requirement upon which this comment is based, so no additional response is needed. |
| Rappahannock Area CSB | Re: cultural competency. "Uses the National CLAS Standards as Primary Guidance Document"<br>CLAS standards are extensive. Could involve significant additional costs. Suggest prioritizing standards | DBHDS is proposing removing the requirement upon which this comment is based, so no additional response is needed. |
| Fairfax-Falls Church CSB<br>Henrico CSB | **Section 590 Provider staff plan**<br>Change "social worker" to "individual" or "professional". Social work is too limited/specific and often refers to the discipline. Add (viii) any professional with at least five years of clinical experience who can demonstrate the required knowledge, skills, and abilities.<br>This description does not mention other licensed staff such as LPC, LMFT, LSATP, LCSW, etc.<br>C.11. This occurs without an electronic (or other) signature. Change "approving" to "oversight and review" Suggest changing "delegated" to "waived" | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| Youth Villages | If the standards are revised to require direct QMHP supervision to be provided by licensed staff, we support the Intensive In-Home Services Programs Guidance document that was written and revised on March 29, 2010 by the DBHDS licensing division which now states that *licensed-eligible staff can also qualify* to meet the licensed supervisor requirement.<br>C.5 We do not believe it is absolutely necessary for intensive in-home QMHPs to be directly supervised by an LMHP. | |

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| | Agencies with a clearly established quality supervision model that has years of outcome data supporting effectiveness should be considered acceptable. While the rational for requiring licensed staff in this role is legitimate, there are more efficient ways to use the LMHP in a supervision model that allows experienced QMHPs to serve as team supervisors under the direct supervision of an LMHP. For quality control, the LMHP can still be limited to the number of teams he/she can oversee. Also, it is reasonable to expect that the LMHP would be a full-time employee of the agency, although his/her role for the intensive in-home program could be less than full time (based on the number of teams the agency operates, the LMHP could perform other duties if the full-time supervisor to team ratio has not been reached). In summary, if a provider is willing to track outcomes and implement a reasonably stringent supervision model, some degree of flexibility should be allowed to support innovation. | |
| FPS | C. Greater detail about supervision than previously; however, weekly would be a better standard for IIHS primarily because holidays, vacations of supervisors or counselor, occur naturally which reduces the frequency anyway | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| Alleghany Highlands CSB | C. 4. & 5. have concerns related to the language in C.4., At this current time, our Psychosocial Rehabilitation Program has a supervisor that has many years of experience providing quality services for this program. In the event that the regulations would change, requiring an LMHP approve these assessments and ISPs, would place additional strain (time and financial burden on the agency in light of potential budget cuts) on our psychiatrist or other qualified supervisors with an LPC or LCSW. This regulation would add additional work and time to these positions.<br>The other concern is in C.5. regarding Supervision of mental health and substance abuse services and co-occurring disorders shall be provided by a Registered Psychiatric Rehabilitation Provider (RPRP) registered with USPRA (as one of the many credentials that will be acceptable). We have Certified Psychiatric Rehabilitation Providers that are currently providing services to individuals with co-occurring disorders at our Psychosocial Rehabilitation Program. These staff are registered members with USPRA. It is our concern that the proposed language is referring to an old credential requirement. | |
| Jennifer Fidura | Delete C.4<br>C.5 Add "employees, volunteers, contractors, and student interns who provide services to individuals with mental health, mental health, substance abuse or" between "Supervision of" and "co-occurring"<br>C.11 Change "shall" to "may" and add ", and in accordance with policies developed as required by 12VAC35-105-650 and 12VAC35-105-660." at the end of the sentence. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Hampton-Newport News CSB | C.5 Requirement of a Bachelor's degree (in addition to experience) will not allow us to promote staff from within who have good skills, great experience, but no degree in the field. We are also pondering how this will affect front line residential supervisors. With the possible cuts in residential rates imminent and the current economical climate, this may have an effect on what we are able to pay supervisors.<br>We strongly support implementation of a grandfathering clause for staff who currently do not have a Bachelor's degree. We | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |

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| | feel it would be fair as well as mutually beneficial to all parties if the requirement placed value on both education AND experience (e.g. Bachelor's Degree and required experience (1 year) OR a higher level of direct care experience (5+ years)). | |
| Middle Peninsula-Northern Neck CSB | Regarding proposed changes in the Licensure Regulation Revisions particularly as they pertain to the credentialing requirement of those individuals providing supervision.<br>I am appreciative of the fact that staff currently providing supervision across the mental health, substance use and intellectual disability areas that do not have the proposed credential will be grandfathered. Were this not the case, our Board would be significantly impacted. Moreover, it is extremely difficult for us presently especially as a rural CSB to have a substantial and well credentialed pool of job applicants from which to choose. Not only is this due to our location but is more often a product of our ability to offer a higher salary and also the ability to sustain it especially in light of recent and proposed budget cuts.<br>Currently many of our supervisors working in our ID residential and Day Support programs, supervisors working in our substance use programs who are in recovery, and supervisors working in our psychosocial, and mental health supportive residential programs are not degreed yet provide high quality supervision and services as evidenced by the many audits that we sustain each year.<br>Furthermore, those employees in our system who have been identified as potentially the next in line to be promoted to a supervisory position will be denied that opportunity because they do not have a degree. And yet they have years of experience and evaluations that attest to their skills and talents.<br>If the proposed revisions are approved, then I would expect that the DBHDS would have to advocate for significantly more State General Fund Dollars earmarked for the CSB system so that we may be in compliance with this regulation.<br>It is recommended that years of experience be allowed to substitute for a Bachelor's degree. | |
| Region Ten CSB<br>Southside CSB<br>SOC Enterprises<br>Community Living Alternative | C. Some of the most effective and competent supervisory staff have not had a 4 year degree. It is important to maximize the amount of talented, skilled, passionate professionals. Current proposed language may limit provider's ability to hire/promote individuals that are capable and would provide value to the population served. Consider allowing experience or a combination of education and experience to substitute for the educational requirement. | |
| Harrisonburg-Rockingham CSB | Correct C5. (v) a Registered Psychiatric Rehabilitation Provider (RPRP) this is not accurate. Psychiatric rehabilitation providers now go through a certification process and are Certified Psychiatric Rehabilitation Providers (CRPR). | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| MVLE | C.6.This enhanced requirement would eliminate career advancement and reduce the incentive for direct line staff to increase their competencies if they know/believe they cannot advance, This will also affect being able to promote from within for support team positions other than managers, as #11 states "*Supervision shall include responsibility for approving assessments and individualized service plans".*<br>Approximately 85% of our staff would need to be | |

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| | grandfathered in. A significant portion of a workforce that would not be eligible for promotional opportunities. this would decrease our retention of staff, a critical element in providing quality services. Only 1 out of 5 applicants applying to MVLE have a college experience-not necessarily a college degree. This represents 12% of the applications we receive for employment. There would be a sharp increase in our ratio of vacancy to fill rates or how long a vacancy remains open prior to being filled. All of these negatively impact services. Our entry level is about $12 per hour, in our experience college applicants are looking for no less than $16 per hour. | |
| Jennifer Fidura<br>Chesterfield CSB<br>Rappahannock Area CSB<br>Prince William County CSB<br>SOC Enterprises<br>Region Ten CSB<br>Didlake, Inc. | C.6 Add "employees, volunteers, contractors, and student interns who provide services to individuals with" between "Supervision of" and "mental retardation." Add "or an employee with experience equivalent to the educational requirement." at the end of the requirement | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | C.6. & 7. VOPA strongly supports the experience and degree requirements as written for both provisions and disagrees with public comments submitted via the Public Comment Forum that call for the proposed language to be changed in such a way that individuals without at least a bachelor's degree in human services field would be allowed to supervise mental retardation (intellectual disability) and IFDDS services. | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| Alexandria CSB<br>Hanover County CSB<br>Mt. Rogers CSB | The requirement of experience and a bachelor's degree for supervision of intellectual disability services is a concern. Although the regulations provide a stipulation for supervisors who currently do not meet these qualifications to continue to supervise based on their experience, consideration should be made to allow future staff who demonstrate good leadership and excellent skills working with individuals with developmental disabilities the same opportunity to supervise based on their experience alone. We recommend a provision be added for those that have 4+ years experience. Recommend that supervisors with more than 5 years experience working directly with individuals with mental retardation (ID) and who do not have a bachelor's degree be "grandfathered in" to meet these requirements | |
| Eastern Shore CSB | The requirement of experience and a bachelor's degree for supervision of intellectual disability services is a concern. This requirement prevents the advancement of staff who do not have a bachelor's degree | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| Highlands CSB | RPRP is no longer used. RPRP should be changed to CPRP (see comment for VAC 12 3520) | |
| Chesterfield CSB<br>Prince William County CSB<br>SOC Enterprises<br>Region Ten CSB<br>Didlake, Inc. | C.7. Support language. Supervision of employees, volunteers, contractors and student interns who provide supports for individuals with developmental disabilities shall be provided by a person with at least one year of documented experience working directly with individuals who have related conditions and is one of the following: a doctor of medicine or osteopathy, a registered nurse; or a person holding at least a bachelor's degree in human service field including but not limited to sociology, social work, special education, rehabilitation counseling, nursing, or psychology or an employee with experience equivalent to the educational requirement. | |

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| Rappahannock-Rapidan CSB | C.4. states categorically that clinical supervisors (or designees) must approve assessments and ISPs. This would appear to require that a licensed therapist have all of his or her assessments and ISPs approved by their supervisor. Is this what is intended?<br>Suggest clarifying that "Supervision shall include responsibility for approving assessments and ISPs for staff who do not meet the qualifications for supervisor." (Or meet qualifications for QMHP, QMRP, etc—of course if the latter is used, then definitions of QMHP, etc must be more inclusive to cover all service areas)<br>C.6. The revised regulations eliminate the possibility of substituting experience for education in supervising ID services. We have many excellent supervisors in residential and day support programs who have lots of experience and skill, but lack the appropriate college degree. While the proposed regulations would grandfather these employees, the regulations, as proposed, would prohibit similar future employees from being placed in supervisory positions. This eliminates many advancement opportunities for staff and eliminates a proven method of hiring skillful, effective supervisors (relying on experience to substitute for education.)<br>Recommend allowing experience to substitute, year for year, for education. Proposed regulations would then require an appropriate college degree plus one year relevant experience, or 5 years relevant experience. | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| BRBH | The draft indicates that the supervisor of services for MH. SA or co-occurring disorders can be a "social worker" with at least a bachelor's degree in human services.<br>Recommend calling that individual a "supervisor" since the term "social worker" might be reserved for a specific program role and might not used to cover individuals supervising such services who meet the educational requirement.<br>Unclear why a Masters-level Psychologist, a Registered Nurse and "any other licensed mental professional" are additionally required to have a year of clinical experience and the Bachelors-level "social worker" is not. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| BRBH Rappahannock-Rapidan CSB | C4. & C.11. Indicate the supervisors or designee is responsible for approving assessments and ISPs.<br>Suggest adding more clarification specific to approving assessments and ISPs for staff <u>who do not meet the qualifications for QMHP, QMRP</u>. Also number 4 and 11 <u>appear to be the same statement, recommend deleting one</u> | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>BRBH | C.7. The requirement of experience and a bachelor's degree for supervision of IDS. Consideration should be made to allow future staff who demonstrate good leadership and excellent skills working with individuals with developmental disabilities the same opportunity to supervise based on their experience alone as proposed regs provide supervisors who currently do not meet qualifications to continue to supervise based on their experience. | DBHDS is proposing regulatory changes in this section to assure consistency with federal and state regulations |
| VAFP | C. 9. should be deleted<br>Supervision guidelines for Intensive-In Home Services are more stringent than those required for comparable state reimbursed services. Providers should be given clear-cut guidelines for 'grandfathering,' without penalty, current supervisors who do not meet the new criteria. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | **Section 600 Nutrition** | DBHDS is proposing that this change be made |

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| | A.1. Change "healthful" to "healthy"<br>B Delete "develop and implement a policy to" and change "food consumption" to "nutrition" | |
| VOPA | A.1. Insert "varied, appetizing" between "well-balanced" and "and"<br>Add "and that choices were followed" at the end of the section | DBHDS is proposing changes in this provision, but is not proposing the specific language suggested by VOPA. |
| Jennifer Fidura | **Section 610 Community participation**<br>Delete "receiving residential, day support, and day treatment services" and insert the phrase "appropriate to the individual and the service" at the end of the sentence. Add ", as applicable" at the end of the section. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VBPD | The Board is concerned that "shall be afforded the opportunity to participate" is vague language that should be rewritten to better support person-centeredness. As now written, this section would consider a provider in compliance who took all the individuals being served to an activity as a group, without offering or considering individual interests and preferences for activities. The Board recommends that language be revised to read: "Individuals … shall be afforded *opportunities* to participate in community activities *that are based on their personal interests or preferences.* | DBHDS is proposing that this change be made |
| VOPA | **Section 645 Initial contacts, screening, admission, assessment, service planning, orientation, and discharge**<br>Change the title of the section to insert "discharge" between "orientation, and" and add "planning" to the end of the title. Though the title of the section mentions discharge, there is not a directive on how this is to be accomplished or when discharge shall occur. DBHDS has put a new section into these regulations that does a good job outlining the discharge process and may want to include a reference to the discharge section here (12 VAC35-105-693). These factors increase the importance of VOPA's recommendation for adding a "discharge planning" definition. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | B. Delete "prior to admission" and insert ", if given" after "Name" in B.2. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| FPS | **Section 650 Assessment policy**<br>Improvements in description of assessments. Now recognizing what they will call "initial" and "comprehensive" FPS has been doing initial and comprehensive assessments for two years; however, with the need for greater detail for Prior Authorization we have stopped doing "initial" assessments. Doubling the time allowed for completion of the comp assessments to 60 days does not seem reasonable from a clinical perspective. Strongly recommend a 45 day max if there is any change to the 30 day requirement. | DBHDS is proposing that this change be made |
| Prince William CSB | B. is vague—do they mean psychological or other assessments conducted by a licensed person, or could it mean the individuals subjective assessment of diagnosis or need. For example, there is a group of self diagnosed Asperger's individuals | DBHDS is proposing that this change be made |
| Jennifer Fidura | D. Insert "or relevant history" at the end of sentence<br>F. Add the phrase ", if applicable" after "address"<br>F.7. Add "if known" after "include"<br>F.7.i. Change "usage" to "abuse"<br>F.15. Delete "fall risk<br>Delete provisions K and L | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |

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| VHHA | D. The proposed revised language is very unclear as to how providers are to comply with the regulation. It replaces the stricken but much clearer language in the current D.3., which we suggest reinstating. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB | E. Consider rewording: "an assessment will be initiated prior to or at admission to services and shall be detailed enough"… Also consider language about initiating the ISP, as opposed to initial or preliminary ISP.<br>Not clear about what is meant by medication-only services- not defined in Part 1, Article 2. Add a definition for Medication-Only. Documentation requirements for medication-only services are not defined,<br>K. Compare this retention to other regulations related to retention of this kind of information. Make them consistent. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | E. VOPA recommends including "medical contraindications for restraint" and including specific types of restraints that would be prohibited and reasoning. This section is supposed to address safety issues; restraint by its nature is a dangerous act and should be addressed in the initial assessment by the provider if the provider utilizes restraint to any degree. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | F. Consider rewording: "within 60 days the assessment shall be updated to include additional information as appropriate"<br>H. Consider expansion of the examples of non-intensive services- these might include periodic interventions, not just determined by location | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | F.7.f. Delete "if any"<br>F.7.j. Insert ",current or previous" at the end of the sentence | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Rappahannock Area CSB<br>Prince William County CSB | Language re: completion of comprehensive assessment no later than 60 days after admission. Clarify what services that is appropriate for, or would be inconsistent with 30 day Medicaid criteria. Extending the assessment period to 60 days is not helpful as it conflicts with the Medicaid regulations. | DBHDS is proposing that this change be made |
| Rappahannock Area CSB | L. Clarify what "shall assist" means, or eliminate this new language | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | **Section 660 Individualized services plan (ISP**) VOPA recommends language be added that the ISP specifically address the development of the safety plan and crisis plan, which are mentioned in 12 VAC35-105-665. ISP requirements within 24 hours of admission rather than "no later than 60 days after admission." | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>Prince William CSB | B. Update the language to read- "The development of a person centered ISP shall begin within 24 hours. (Again to get at the notion that this is an ongoing document, not one that is done as an initial or preliminary).<br>Extending the period to 60 days is not helpful as it conflicts with the Medicaid regulations | DBHDS is proposing changes be made in this definition, but not all of the changes suggested in the public comments are being proposed |
| Rappahannock Area CSB | B. Allows for comprehensive ISP to be developed no later than 60 days after admission – too long, inconsistent with Medicaid<br>Clarify for which "nature and scope" of services up to 60 days would be permissible – or return language to 30 days | DBHDS is proposing that this change be made |
| MVLE | B. It seems as if Licensing is trying to align their regulations with Medicaid. This will require more paperwork, as well as requiring Managers to audit 30/60 day paperwork to ensure it | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to |

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| | is being recorded accurately. Currently we do a general assessment for those individuals who are not funded through a waiver, and for those that are funded through a waiver not only their general assessment but we also assess on outcomes developed during the intake. This means the Direct Service Professionals (DSP) will have to record on 2 separate documentation sheets for at least 60 days. | the comment. |
| FPS | B. Extending the deadline for the Comprehensive ISP to 60 days also does not seem reasonable. A preliminary ISP does not provide enough guidance for treatment. Strongly recommend a 45 day max if there is any change to the 30 day requirement. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | C. Consider changing the approach by language that reflects- that a more comprehensive ISP will be completed within 60 days and address additional information | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | Add two additional provisions as follows<br>D. Providers of short-term intensive services, such as inpatient and crisis stabilization services that are typically provided for less than 30 days shall implement a policy to develop an ISP within a timeframe consistent with the length of stay of individuals.<br>E. The ISP shall be consistent with the plan of care for individuals served by the IFDDS Waiver. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Highlands Community Services | This ISP shall be developed and implemented within 24 hours of admission to address immediate service, health, and safety needs and shall continue in effect until the ISP is developed.<br>Recommend the elimination of developing an initial ISP within the first 24 hours. Standard is not congruent with Medicaid, Medicare, or Insurance documentation requirements and creates an unnecessary layer of documentation which has not been found to be clinically useful. Immediate services or health and safety issues can be addressed within the progress note as needed and incorporated within the ISP as it is developed. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Highlands CSB | There is a conflict between Initial Service Plan for the First 60 days and Medicaid regs which require a final service plan within 30 days. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Prince William CSB | **Section 665 Requirements of ISP**<br>A.3.Doesn't match ID Person Centered Plan requirements from DBDHS. They don't frame plans in terms of measurable objectives. Rather plans are written as a Plan for supports. Second the SIS may identify multiple needs, yet the plan may target selective needs to address the areas that are most important to or for the individual. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB | A.3. Change "each identifiable need" to "each need identified by the individual" (more client-centered).<br>A.8 Add "if applicable" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VOPA | A.6. VOPA recommend that clarification be added with the communication plan should account for various modes of communication. Specifically, it should highlight an individual's preferred communication style along with guidelines for using augmentative communication devices as needed and a plan for obtaining any needed devices, interpreters, etc. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | A.8. Replace "fall risk plan" with "plan to minimize the risk of injury from falling" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to |

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| | A.13 Add "if applicable" Unless a co-occurring mental illness or substance abuse disorder exists, recovery does not apply to individuals with an intellectual disability or developmental disability.<br>B. Change the "or" after services to "and" and add ", if applicable," after "authorized representative"<br>C. Insert the phrase ", who is qualified by training and experience," after "The provider shall designate a person"<br>Delete provisions E., F. and H | the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB<br>VHHA | A.13 Not clearly defined- add "if applicable" requirement is unclear for providers Delete the requirement | DBHDS is proposing that this change be made |
| VOPA<br>VBPD | A.13 The "or" be changed to "and". It is important to stress the individual's role in their treatment and promote their right to participate whenever possible.<br>C. now allows collaboration with either "the individual or authorized representative, as appropriate". The Board strongly supports involving the individual with a disability in all decisions that affect his or her life, even when an AR is appointed. recommend replacing "or" with "and" | DBHDS is proposing that this change be made |
| Rappahannock-Rapidan CSB | The more crowded the ISP, the harder it is to quickly glean the most significant elements Also, the longer the ISP is required to be, the more likely that programs will develop ways to create them by cut and paste type methods than by creating active living documents. The unintended consequence of this may be less not more personalization. It is hard to imagine such a long document being practical in a setting with high case loads (like outpatient).<br>Also, some things listed (such as safety plan, for example) may be very short term and might change as conditions change. This would be a more effective document if kept with, but separate from the actual ISP document. An addition to the ISP could reference the safety plan, but it seems less functional for the individual served to use an all encompassing document than a stand alone document. The same would be true for a crisis or relapse plan or a WRAP.<br>Many of the items listed are items better placed on an assessment than on an actual ISP document (for examples, strengths & preferences) While an ISP should refer to and be based on the assessment, it is redundant and wasteful to repeat them on the ISP. It also creates a lengthy text laden document that becomes much less useful as a guide for the individual served than would a concise list of goals, objectives and interventions to meet those objectives.<br>Recommendation: List the required elements as they are in the current regulations. Then list the items 1-12 (which don't duplicate the items listed as required) as items which need to be addressed in an appropriate manner—possibly on the ISP, but possibly in a separate document such as a separate type of plan (WRAP, Safety, crisis, etc) or in a current assessment (strengths & preferences, for example) or not at all if not applicable. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Chesapeake CSB | **Section 675 Reassessments and ISP reviews**<br>Define reassessment- update key areas or things that have changed. Align with DMAS regulations for consistency which says "The provider shall review the ISP at least every three months…" DMAS provides a grace period for the review, e.g., for case management, end of following month after 3-month | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |

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| | due date or within 10 day grace period for other services. | |
| Jennifer Fidura | B. Insert "from the date of implementation of the ISP" after "every three months" | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Section 680 Progress notes or other documentation**<br>Delete "and the implementation of and " before "outcomes contained in the ISP". | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VHHA | The proposed revision is unclear. The stricken current language should be reinstated because outcomes are not "contained in" the ISP. | DBHDS is proposing that this change be made |
| Jennifer Fidura | **Section 690 Orientation**<br>A Delete "develop and"<br>B. Insert "be provided" before the :<br>B.3. Insert "and the complaint procedure" at the end<br>B4. Add an "s" to service<br>B.5. Insert ", if applicable" at the end<br>B.6. Delete<br>B.8 & 9. Insert ", if applicable" at the end of both | DBHDS is proposing changes be made in this section, but not all of the changes suggested in the public comments are being propose**d** |
| Fairfax-Falls Church CSB<br>Henrico CSB | **Section 691 Transition of individuals among service locations**<br>A.3- location of individual record, change to "access to the individual record" to reflect EHR development | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | A.4 and A.5 Might want to clarify the difference between transfer (within a disability area) versus discharge. | DBHDS is proposing that this change be made |
| VHHA | B.7. Please clarify. Does this refer to emergency contacts or medical history information? | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | A.4 Insert ", if applicable" after "summary"<br>B After "The transfer summary shall" insert the following "be required only if the individual's record and ISP do not accompany the individual upon transfer and shall" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| FPS | **Section 693 Discharge**<br>This provision should have stronger statement regarding aftercare services/activities | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB | B. After "medications and dosages" add "when prescribed by provider or documented in service record or by case management.".<br>-After "current medical issues or conditions", add "that provider has been treating or documented in service record or by case management.<br>-Add "as applicable" at the end.<br>-As written, not always appropriate, or information we would have (i.e. Outpatient Services).<br>F. 8. Add "prescribed by provider or documented in service record or by case management" after "medications"**.** | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VHHA | B. Does "the identity of health care providers" refer to treating health care providers? | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | B After" individual" insert "and/or the successor provider" -- delete "his" and insert "the individual's"<br>E. Remove family members -- Insert "and" after "individual" and remove "and his family members | DBHDS is proposing that this change be made |
| Alexandria CSB | **Section 700 Crisis intervention and emergencies** | DBHDS feels the provision as written is consistent with |

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| | Add definitions to provide more information to assist with adhering to the intent of proposed requirement. Suggest that the definition of advance psychiatric or medical directive be added. | the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Rappahannock Area CSB | B.4. The use of the term "advance psychiatric directive" is inconsistent with the Code. Refer to crisis plans or medical directives. Impossible to make those plans accessible for all individuals served to employees or contractors 24/7. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | **Section 720 Health care policy**<br>A. Need to define "scope and level of service." and "appropriate medical care" Those terms are too vague.<br>A.2.Need to define "appropriate to the scope and level of service." The terms are too vague<br>A.5. Need to define and clarify what does "manage" and "respond" mean so providers understand scope of responsibility. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | B. Delete entire provision<br>C. At the end of the provision, add "and instances when they shall provide detailed information to the residential or inpatient service so that they can provide or arrange for appropriate medical care."<br>D. Delete "develop, document and " | DBHDS is proposing changes be made in this section, but not all of the changes suggested in the public comments are being propose**d** |
| Fairfax-Falls Church CSB<br>Henrico CSB | B. Clarify if policies to apply to all consumers or only those in 24/7 programming? Add "as appropriate" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Eastern Shore CSB | E. Need to define "outbreak". Suggest referencing existing rules for licensure rules, e.g., Department of Health regulates the reporting of communicable diseases, their definitions should be used when applicable. Some relationship to the already existing reportable infectious diseases in Virginia needs to be made, for example, an "outbreak" of meningitis in a school would be two or more cases the way we treat this dangerous disease. One case of cholera or small pox would be an "outbreak | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VHHA | **Section 740 Physical examination**<br>A. Please define "qualified practitioner" as used in this context. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | A. Should clarify if provider is responsible for assuring physical exams are provided for ALL consumers, or only for those being admitted to residential and inpatient programs. Before last sentence, add "The examination must have been conducted within one year of admission to service." | DBHDS is proposing changes be made in this section, but not all of the changes suggested in the public comments are being propose**d** |
| Jennifer Fidura | D. Change "make arrangements" to "request, assist and facilitate".<br>Suggest adding "when permitted". Particularly in outpatient settings, this is not always the individual's preference.<br>E. Insert ", as appropriate," and delete the "s" at the end of "records" | DBHDS is proposing that this change be made |
| VHHA | D. Replace "receipt" with "completion" | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico CSB | E. The provider can request the results, and can store all documents related to follow up medical and physical tests, but may not be able to actually document all results. | DBHDS is proposing that this change be made |
| Jennifer Fidura | **Section 790 Medication administration and storage of pharmacy operations**<br>A.3. Delete "and Medication Administration Curriculum" and | DBHDS is proposing that this change be made |

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| | change the citation from 18 VAC 90-20-390 to 18 VAC 90-20-400<br>B. Insert ", if applicable," after "representatives" | |
| VOPA | **Section 800 Policies and procedures on behavior interventions and supports**<br>Change title and replace "management techniques" with "interventions and supports" to be consistent with the manner, format and language most frequently understood by the individual receiving the services. | DBHDS is proposing that this change be made |
| FPS | Wording improvement behavior "management techniques" to the more positive behavior "interventions and supports" | DBHDS is proposing that this change be made |
| Jennifer Fidura | C. Delete "their families," then insert "and" after "representatives" insert "if applicable." and delete "and advocates." | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| VHHA | B. The term "supports" is not defined or even used consistently in these proposed regulations nor is it used or defined in the human rights regulations or CMS Conditions of Participation. "Behavioral interventions" are regulated in great detail in both contexts, and the licensure regulations should be consistent with them. For clarity and to avoid ambiguity, we suggest eliminating the term "supports" form the proposed regulations. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Prince William County | **Section 830 Seclusion, restraint, and time out**<br>Doesn't specify approval by LHRC and compliance with HR regulations. | DBHDS is proposing changes be made in this section, but not all of the changes suggested in the public comments are being propose**d** |
| FPS | **Section 870 Written and electronic records management policy**<br>Allowance for "electronic" records policy appropriate change | No response required |
| Jennifer Fidura | A. Delete "develop and" and "and electronic". After individuals add "for both paper and electronic records" | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB<br>Henrico CSB | **Section 880 Documentation policy**<br>B.1. Update the language on the location of the record- if this is electronic. Clarify if it refers to format and location. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Portsmouth CSB<br>Eastern Shore CSB | C. Requirement does not identify that providers with electronic records should correct errors, only identify them.<br>Recommend: "If records are electronic, the provider shall develop and implement a written policy ~~to identify~~ on the identification of and corrections ~~of~~ to the record.<br>To provide more clarity, it is suggested that this requirement be expanded to address correction of errors and amendment to an electronic record | DBHDS is proposing that this change be made |
| Jennifer Fidura | C. Insert "and initialing" before "the incorrect information" Delete ", and initialing the correction." Delete "develop and" | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Section 890 Individual's service record**<br>A Amend to "There shall be a single, separate primary record, as defined by the provider, for each individual or family admitted…" | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Loudoun County CSB | This section doesn't seem to take into account that a provider could have a paper and computer record.<br>Under A, delete the language "single" so that the sentence would read<br>A. There shall be a separate primary record…. | DBHDS is proposing that this change be made |
| BRBH | Regulation requires written policy on the identification of corrections when errors occur in the electronic record, but does not indicate that the records should correct them | DBHDS is proposing that this change be made |

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| | Recommend adding to this requirement that the written policy include the identification and correction to the record | |
| Fairfax-Falls Church CSB<br>Henrico Area CSB | **Section 900 Record storage and security**<br>Update to reflect movement to electronic records. Perhaps something that says anything kept on paper would be stored. | DBHDS is proposing that this change be made |
| Chesapeake CSB<br>Henrico CSB<br>Hampton-Newport News CSB | **Section 910 Retention of individual's service records**<br>The revision sets forth the retention period as a minimum of three years unless otherwise specified by state or federal requirements. The Library of Virginia Schedule 18 for Community Services Boards sets the retention period as six years from the last date of treatment as does HIPAA §164.530 (j) (2).<br>Suggest dropping a specified time period and referencing "as specified in state and federal law" and/or setting the period to be aligned with the six years for state and federal law. | DBHDS is proposing that this change be made |
| VBPD | B Requires all providers to maintain the specified individual information "permanently". Of concern to VBPD is protection of the individual from misuse of his or her identifying information, i.e. identity theft. Is "permanent" retention of this personal information for all individuals served in licensed residential programs required by state or federal law? If so, addition of language referring to the law and specific types of residential programs covered would provide helpful guidance. We recommend that language be added to set a 3-year time limit on retention of the individual information, unless required by state or federal law. | DBHDS is proposing that this change be made |
| VOPA | B. VOPA is concerned with DBHDS intention of permanently retaining individual's services records. Without further explanation as to the reasoning, VOPA suggests that records be retained no longer than recommended by state and federal policies and procedures. | DBHDS is proposing that this change be made |
| Henrico CSB Hampton-Newport News CSB | B. Eliminate this provision: should be unnecessary once the record is destroyed. What purpose would confirming that a person was a client do once the record is destroyed, other than raising questions about the services, issues, etc. ? The concern is misinterpretation of the information. | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Section 925 Standards for the evaluation of the need for new licenses for providers of services to persons with opioid addiction**<br>A. These requirements outlined in this section are discriminatory. These requirements are not imposed on any other service.<br>Programs that provide opioid treatment services but do not dispense or administer medication (i.e. outpatient buprenorphine services where individuals receive a prescription for medication) should not be included in this service area. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Eastern Shore CSB | P. In this standard reference is made to the Office of Substance Abuse Services. Isn't the Office of Substance Abuse Services merging with the Office of Mental Health Services? | DBHDS is proposing that this change be made |
| Fairfax-Falls Church CSB | **Section 1080 Direct-care training for providers of detoxification services**<br>It is not clear what first responder training entails. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | **Section 1100 Documentation**<br>Change "on each shift" to "a minimum of 2 times per day". | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to |

| Commenter(s) | Comment | Agency Response |
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| | | the comment. |
| Jennifer Fidura | **Section 1200 Supervision**<br>C. Delete "have a valid registration and inspection sticker." and replace with "comply with the provisions of the Code of Virginia." | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Blue Ridge Residential Services | *Proposed Change:*<br>A. The provider shall have a supervisor for a maximum of 25 individuals receiving sponsored residential home services.<br>*Rationale:* The current language allows for a ratio of 40 individuals to one supervisor. This presents for an increase in potential harm and human rights issues. For sponsored residential agencies that support 2 people in one home, supervision is stretched to 1 – 40 *people* per the proposed regulation. At a minimum, quality of care and treatment planning may be compromised without proper supervision ratios.<br>B. Add "and shall meet with each individual a minimum of once a month."<br>*Rationale:* Under *12VAC35-105-1190 E. Sponsored residential home service policies* it states:<br>"The provider shall conduct at least semi-annual unannounced visits to inspections of each sponsored residential homes ~~home o~~ther than his own. Inspections shall be performed at least on a quarterly basis during the year with at least two being unannounced inspections."<br>Under this proposed regulation, Sponsored home providers could visit a minimum of every three months. This is appropriate for inspection of a sponsored home but not sufficient for service delivery to the individual<br>Our concern is that a supervisor should be seeing individual no less that every month. This will reduce the likelihood of potential abuse and other human rights issues. It will also ensure that other all other aspects of service delivery is being met. | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Jennifer Fidura | **Section 1210 Sponsored residential home**<br>5. Delete entire provision | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB | **Section 1360 Admission and discharge criteria**<br>B4 Changes are confusing. #4 is suppose to capture honoring client choice. That is, someone who is declining the offer of continuing services and wants to terminate even if AMA. The provider is responsible for revising the ISP to address concerns, but the choice to terminate services is not necessarily made "with" the provider (unlike #5 where it is). Recommend retention of original language.<br>A.2.b It makes sense to excuse the nurses from having to be counted in this %, but not the team leader. Agree that should be able to "get credit" for those positions if they hold masters degrees. Recommend change to: …*(not including the nurses or the peer specialist unless those individuals hold such a degree)* | DBHDS feels the provision as written is consistent with the scope and intent of its statutory licensing responsibilities. No change is proposed in response to the comment. |
| Fairfax-Falls Church CSB<br>Henrico CSB | A.1.d. It is not unusual for Peer Specialist positions to be job-shared. It is critically important to ensure the removal of FTE to full time DOES NOT preclude this. | DBHDS is proposing that this change be made |
| **Other Comments** | | |

| Commenter(s) | Comment | Agency Response |
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| Fairfax-Falls Church | Section 1380 is a brief, but significant section in the original regulations. Recommend: Get clarity on whether it was deleted or changed and give opportunity for review and feedback before finalized. | This action does not propose any changes in *Section 1380 Contacts*, this section will remain unchanged. |
| Faith, Hope and Love, LLC | Requests that licensing regulations be modified to offer providers incentives to assist their employees obtain specific educational credentials. | This request is outside of the scope of regulatory changes being proposed |
| VOPA | How will compliance and the sanction for non-compliance be measured? How will DBHDS ensure action? There are several instances in the regulations that require providers to do something, but there is not a requirement for a policy, documentation, etc. | DBHDS believes that the regulations contain sufficient protections regarding non compliance |
| VOPA | VOPA feels that, much the way that health professional are, DBHDS should maintain a list on their website that informs consumers not only of the status of licenses and corrective action plans but also the history of incident reports for the provider | The comment is beyond the scope of this regulatory action |

## All changes made in this regulatory action

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|---|---|---|---|
| 10 | | Statement of the legal authority and applicability of the regulations. | Revised and updated to reflect the recent recodification of Title 37.1 to 37.2. and the change in the name of the Board |
| 20 | | Provides definitions of terms used in the regulations. | Added, deleted, revised and updated definitions generally for consistency with the recent recodification of Title 37.1 to 37.2. and federal and state regulations.<br><br>New definitions include -- “authorized representative,” “behavior treatment plan,” "clinical experience," "co-occurring disorders," "co-occurring services," "developmental disabilities," "initial assessment," "medically managed withdrawal services,“ "mandatory outpatient treatment" "medication assisted treatment (opioid treatment service)," "mental illness," "person-centered," "Qualified Mental Health Professional-Child (QMHP-C)," "Qualified Mental Health Professional-Eligible (QMHP-E)," "recovery," "restraints for behavioral purposes," "restraints for medical purposes," "restraints for protective purposes," "state board," "substance abuse intensive outpatient service," and "therapeutic day treatment for children and adolescents."<br><br>Deleted definitions include -- "behavioral treatment," "brain injury waiver," "clubhouse services," "consumer service plan," "corporal punishment," "day treatment services," "intensive outpatient service," "legally authorized representative," "mentally ill," "opioid treatment service," "plan of care," "Qualified Brain Injury Professional (QBIP)," "Qualified Developmental Disabilities Professional (QDDP)," "Qualified Paraprofessional in Brain Injury (QPPBI)," and "related conditions." |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| | | | Revised definitions include -- "abuse," "admission," "brain injury," "admission," "care," "case management service," "commissioner," "community gero-psychiatric residential services," "community intermediate care facility/mental retardation (ICF/MR)," "complaint," "corrective action plan," "crisis," "crisis stabilization," "day support service," "department," "discharge," "discharge plan," "emergency services," "group home," "home and noncenter based," "individual," "individualized services plan," "inpatient psychiatric service," "intensive community treatment (ICT) service," "intensive in-home services," "investigation," "licensed mental health professional (LMHP),'" "medical detoxification," "medication administration," "medication error," "Mental Health Community Support Services (MHCSS)," "neglect," "outpatient service," "partial hospitalization service," "Program of Assertive Community Treatment (PACT)," "provider," "Qualified Mental Retardation Professional (QMRP)," "Qualified Paraprofessional in Mental Health (QPPMH)," "residential crisis stabilization service," "residential service," "residential treatment service," "restraint," " screening," "seclusion," "serious injury," "service," "social detoxification service," "sponsored residential home," "supervised living residential service," "supportive in-home service," and "timeout."<br><br>Updated terms include -- "Behavior management" to "behavior intervention" -- "mental retardation" to "mental retardation (intellectual disability)," -- "psychosocial rehabilitation" to "psychosocial rehabilitation service," -- "Qualified Mental Health Professional" to "Qualified Mental Health Professional-Adult (QMHP-A)," -- "state authority" to "state methadone authority," -- "substance abuse" to "substance abuse (substance use disorders)." |
| 30 | | Provides a description of the services that are licensed by DBHDS. | Updated and edited the description of the services that are subject to licensing for clarity and consistency with the current statutory requirements. |
| 40 | | Lists the requirements for provider license applications. | Contains minor editorial revisions for clarity. It also includes a new requirement for potential providers to disclose any prior sanctions, including criminal sanctions, imposed by any other licensing authority in Virginia or in other states. This will allow DBHDS to have access all pertinent information to take appropriate action on the application.<br><br>Eliminates the requirement for provider applicants to submit a certificate of occupancy and floor plan at the time of application and requires them to be submitted before the license is issued. Because the application process may take several months, this requirement added unnecessary cost during the period that the applicant was applying for the license. The revision will potentially reduce the cost of maintaining a facility while the provider applies for a license. |
| 50 | | Provides the requirements for issuing licenses.<br><br>Lists conditional and provisional license requirements. | Includes editorial changes for clarity. New restrictions were included for provisional and conditional licenses. These restrictions have been imposed by policy but have now been added to the regulations. This is intended to improve the oversight of providers who have not fully demonstrated compliance with all requirements. |
| 60 | | Provides for modification of licenses. | Adds a timeframe for providers to submit an application for a modification to its license and provides additional clarification for implementing the process. |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| 70 | | Provides for on-site reviews | Non-substantive edits for clarity |
| 80 | | No change | |
| 90 | | Specifies the requirements determining level of compliance. | Non-substantive edits for clarity |
| 100 | | Provides for sanctioning non-compliant providers. | Updated regulatory and Virginia Code citations consistent with the recodification of Title 37.1 to 37.2 and other regulations of the Board. |
| 110 | | Lists provisions for denial, revocation, or suspension of a license. | Includes non-substantive edits for clarity and updates the regulatory and Code citations consistent with the recodification of Title 37.1 to 37.2 and other regulations of the Board. |
| 115 | | Provides requirements for issuing an order of summary suspension of a license. | Non-substantive edits for clarity |
| 120 | | No change. | |
| 130 | | Provides for confidentiality of records. | Non-substantive edits for clarity. |
| 140 | | Requires licenses to be displayed. | Non-substantive edits for clarity. |
| 150 | | Lists other applicable laws and regulations for compliance. | Non-substantive edits for clarity and includes updates to regulatory and Code citations Consistent with the recodification of Title 37.1 to 37.2 and other regulations of the Board. Adds a statement that the providers' policies shall be in writing to ensure that they are documented and available to regulators and the public.<br><br>Deleted requirements for prescreening and discharge planning in this section and replaced and expanded in the following new section 155. |
| | 155 | Provides requirements for pre-admission screening, predischarge planning, involuntary commitment, and mandatory outpatient treatment orders. | Includes provisions for prescreening and discharge planning that were relocated to this section for emphasis and clarity. Provisions are updated to conform to current Code requirements. Subsection B was included in this new section to require that providers who serve individuals through an emergency custody order, temporary detention order, or mandatory outpatient treatment order to develop policies and procedures to ensure compliance with the relevant Code requirements. |
| 160 | | Describes the review process and provider requirements for reporting to the agency. | Edited provisions for clarity and emphasis. A statement has been added for emphasis (subsection F) to prohibit providers from submitting false or misleading information. |
| 170 | | Provides for corrective action plans when a provider is cited for noncompliance with the regulations. | Edited for clarity. There are enhanced provisions for resolving any disagreements between the provider and agency at the lowest possible level when a there is a finding of noncompliance. |
| 180 | | Provides for notifications of various provider changes. | Includes minor, non-substantive edits for clarity. |
| 190 | | Requires evidence of the operating authority of a provider. | Includes minor, non-substantive edits for clarity. |
| 200 | | No change. | |
| 210 | | Includes requirements for providers to document that financial resources are available to provide service operations. | Clarifies the current requirement that providers document that they have the financial resources to ensure ongoing operations for 90 days. Eliminates the requirement that providers to undergo a financial audit every three years and replaces it with the statement that DBHDS may require this audit unless otherwise required by law or regulation. This will reduce the unnecessary paperwork burden on providers, especially those that are considered small businesses. Adds a requirement that providers identify in writing that the person responsible for fiscal management has the necessary qualifications. |
| 220 | | Provides requirements for indemnity coverage. | Clarifies that the indemnity coverage is required only for commercial vehicles. |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| 230 | | Requires a written fee schedule to be available. | Adds a statement that the fee schedule shall be available specifically to the individual receiving services or his authorized representative. |
| 240 | | Requires the provider to have policies on funds of individuals receiving services. | Includes a minor editorial revision. |
| 250 | | No change | |
| 260 | | Includes requirements for building inspection and classifications. | Clarified documentation requirements for a copy of a Certificate of Use and Occupancy. Includes minor editorial changes. |
| | 265 | New provision for floor plans. | Adds a requirement that the provider must provide DBHDS a copy of a floor plan when it acquires a new location. Home and non-center based services are excluded from this requirement. |
| 270 | | Provides requirements for building modifications. | Includes non-substantive edits for clarity. |
| 280 | | Provides requirements for provider's physical environment. | Includes non-substantive edits for clarity. |
| 290 | | Includes provisions for food service inspections. | Eliminates the requirement that group homes or community residential homes obtain the approval from state or local health authorities for food service. This food service inspection is not routinely provided by health authorities and was not reasonable to expect these providers to comply with this requirement. |
| 300 | | Provides requirements for water and sewer inspections. | Eliminates the requirement that service locations on non-public water and sewage systems document inspections by the local authorities on an annual basis. It is replaced with the requirement that such service providers comply with applicable state and local laws. This reduces the burden on some providers, including those that may be consider small businesses. |
| 310 | | Provides requirements for the use and possession of firearms by a service provider. | Includes editorial revisions for clarity and consistency. |
| 320 | | Provides requirements for fire inspections. | Includes editorial revisions for clarity and consistency. |
| 330 | | Provides requirements for bed capacity. | Reduces the maximum bed capacity of ICF/MR service providers from 20 to 12 beds. This capacity does not apply to providers that are licensed prior to the effective day of the amended regulations. This is consistent with current standards of practice. |
| 340 | | Provides requirements for bedrooms. | Limits the occupancy of shared bedrooms in a Medicaid waiver group home to two individuals. This capacity does not apply to providers that are licensed prior to the effective day of the amended regulations. This change is consistent with current standards of practice.<br><br>Also includes editorial changes for clarity. |
| 350 | | Provides standards for the condition of beds. | Includes editorial changes for clarity. |
| 360 | | Provides standards for privacy for individuals receiving services. | Includes editorial changes for clarity. |
| 370 | | Provides requirements for bathroom facilities. | Includes editorial changes for clarity. |
| 380 | | Provides requirements for lighting. | Includes editorial changes for clarity. |
| 390 | | Provides requirements for personnel records security. | Includes minor editorial revisions and clarification of legal reference. |
| 400 | | Includes requirements for criminal registry checks. | Provides updates and clarification of legal references and citations and minor editorial revisions. |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|---|---|---|---|
| 410 | | Provides requirements for job descriptions | Includes minor editorial clarifications. |
| 420 | | Provides requirements for employee and contractor qualifications. | Includes minor editorial clarifications. |
| 430 | | Provides requirements for personnel records. | Includes minor editorial clarifications. |
| 440 | | Provides requirements for orientation of personnel. | Includes minor editorial clarifications. |
| 450 | | Provides requirements for training and development. | Includes minor editorial clarifications. |
| 460 | | Provides requirements for medical or first aid training. | Includes one edit for clarity. |
| 470 | | Requires notification of policy changes. | Adds provisions for ensuring that the providers' personnel receive written notice of policy changes. |
| 480 | | Provides requirements for personnel performance requirements. | Includes one edit for clarity. |
| 490 | | Provides for written grievance policy. | Places greater emphasis on the process to ensure that employees are advised of the grievance policy. |
| 500 | | Provides policy for students and volunteers. | Edited for clarity and consistency with the other parts of the regulations. |
| 510 | | Provides policy for TB screening. | Edited for clarity. |
| 520 | | Requires risk management functions by providers. | Edited for clarity and simplified requirements. |
| 530 | | Provides requirements for emergency preparedness and response plan. | Updated and edited the requirements for emergency preparedness and response plans consistent with the requirements of the Virginia Office of Emergency Preparedness. Includes the requirement to for the provider to store a three-day stock of food for potential emergencies. |
| 540 | | Provides requirements for emergency telephone access. | Edited for clarity |
| 550 | | Provides requirements for a first aid kit. | Updates requirements consistent with current professional first aid practices. |
| 560 | | Requirements for flashlights or battery lanterns. | Edited for clarity |
| 570 | | No change | |
| 580 | | Provides requirements for service descriptions. | Updated and edited for clarity. Includes new requirements for individuals who are served as a result of a temporary detention order (TDO). |
| 590 | | Provides provider staffing plan requirements. | Edited for clarity and provides updates and additional detail describing the minimum qualifications required for various clinical and service staff consistent with current professional practice. |
| 600 | | Provides requirements for preparing and serving food. | Edited for clarity |
| 610 | | Requires community activities be available for individuals receiving services. | Edited for clarity |
| 630 | | Repealed | |
| 640 | | Repealed. | |
| | 645 | Provides general requirements for screening, admissions, service planning policies, etc. | Consolidates, clarifies and updates the provisions and documentation requirements formerly in sections 630 and 640, which are being repealed. |
| 650 | | Requires the provider to develop a policy for assessing persons prior to admission to a service and conduct comprehensive follow-up assessments. | Expands and emphasizes that assessments shall actively and meaningfully involve the individual who will be receiving service or his authorized representative. Principles of person-centered practices are factored into these assessment requirements. Also |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| | | | includes requirement that any individual history of trauma and abuse shall be included (F.9.) in comprehensive assessments. This update should help to help ensure that the services will address the specific needs of the individual. Also allows standardized state or federally sanctioned assessment tools to be used, when appropriate (I.). |
| 660 | | Requires the development of individualized services plans (ISPs). | Expands and emphasizes that ISP development shall actively and meaningfully involve the individual who will be receiving service or his authorized representative. Allows the completion of the comprehensive ISP to be completed in 60 days for individuals with developmental disabilities instead of 30 days following admission (B.) This will reduce the paperwork burden on some providers. The provisions for initial ISPs, which must be completed within 24 hours of admission, are clarified and strengthened to ensure the individual health and safety needs are met. |
| | 665 | Provides detailed requirements for comprehensive ISPs. | Augments and consolidates the requirements formerly contained in Section 660 and 670 of the regulations. Emphasizes that individual's personal goals and preferences are a consideration in the ISP, consistent with person-centered principles and practices. Whenever possible the identified goals in the ISP must be written in the words of the individual receiving services (H.) |
| | 675 | Requires reassessments to be completed annually. | Relocates requirements for annual and ongoing reassessments from Section 650.D3. The intent is to clarify and emphasize these reassessment requirements. |
| 680 | | Provides requirements for progress notes. | Minor edit for clarity |
| 690 | | Provides requirements for providers to orient individuals receiving services. | Minor edits for clarity and consistent terminology with other parts of the regulations. |
| | 691 | Adds provisions and requires the provider to develop a policy for transitioning individuals from on service location to another that are operated by the provider. | Relocated from Section 850 which is being repealed. |
| | 693 | Adds a new section that provides requirements for discharge. | Restated and relocated from other parts of the regulations for emphasis. (See Section 860 which is being repealed.) |
| 700 | | Provides requirements to address emergency interventions. | Edited for clarity and emphasis of important requirements. |
| 710 | | Requires documentation of crisis or emergency services. | Includes non-substantive edits for clarity and emphasis. |
| 720 | | Provides policies for medical and health care for individuals receiving services. | Updated and edited for clarity. Incorporates pertinent elements of Section 730 which is being repealed. |
| 730 | | Repealed (see above section 720) | |
| 740 | | Provides requirements for physical examinations. | Edited for clarity. Includes new requirements to ensure there is documentation and appropriate follow-up. |
| 750 | | Provides requirements for emergency medical information. | Edited for clarity and updated to require that any inclusion of any ambulatory or sensory problems in the emergency medical information that is maintained by the provider. |
| 760 | | No change. | |
| 770 | | Provides requirements for medication management. | Includes a new provision to ensure that the provider documents medications that are administered or refused in the daily log. |
| 780 | | No change | |
| 790 | | Provides requirements for medication administration and storage. | Minor non-substantive edits for clarity and language consistency. |
| 800 | | Provides policies and procedures for behavior management. | Changed terminology from behavior "management" to behavior "intervention" and edited language to be more positive and person- |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| | | | centered. |
| 810 | | Requires a behavioral treatment plan. | Includes non-substantive edits for clarity. |
| 820 | | Describes prohibited actions by providers. | Includes non-substantive edits for clarity and consistency. |
| 830 & 840 | | Provides requirements for rooms used for seclusion, restraint and time-out. | Includes minor non-substantive edits for clarity and language consistency. |
| 850 | | Repealed. | Relocated and updated at new Section 691. |
| 860 | | Repealed. | Relocated and updated at new Section 693. |
| 870 | | Provides requirements for a records management policy. | Updated and edited to incorporate policy for electronic records |
| 880 | | Provides documentation policy. | Edited for clarity. |
| 890 | | Provides requirements for an individual's service record. | Edited and updated for clarity. |
| 900 | | Provides for record storage and security. | Edited for clarity. |
| 910 | | Provides requirements for retention of service records. | Inserted non-substantive revisions and a statement that any federal or state requirements pre-empt the provisions in these regulations. |
| 920 | | No change. | |
| 925 | | Provides standards for opioid addiction services. | Edited for clarity. |
| 930 | | Requires registration or certification of opioid addiction services. | Edited for clarity and language consistency. |
| 940 | | Provides criteria for involuntary termination from treatment. | Added new requirement for individuals receiving services to authorize the disclosure of certain information to the Virginia Prescription Monitoring System. Failure to do so is grounds for non-admission to the service program. |
| 950 | | Provides criteria for the service operation schedule for services providing daily dosing medication, including methadone | Inserts new statutory provisions for closing on Sunday services that dispense methadone. These provisions are consistent with requirements of the state methadone authority and should provide more flexible schedules for these providers and individuals receiving services. |
| 960 | | Provides requirements for physical examinations for individuals receiving services. | Adds provisions for AIDS/HIV testing and treatment for certain medications. This should ensure more comprehensive physical evaluations for individuals receiving services. |
| 970 | | Requires face-to-face counseling sessions. | Updates for clarity. |
| 980 | | Requires drug screens. | Minor edit for clarity. |
| 990 | | Provides requirements for take-home medications. | Provides for more comprehensive assessments prior to dispensing take-home medications. |
| 1000 | | Requires provider policy to prevent duplication of opioid medication services. | Includes non-substantive edits for clarity. |
| 1020 | | Requires providers to provide a opportunity for an individual who is being discharged to detoxify from opioid agonist medication. | Includes non-substantive edits for clarity. |
| 1030 | | No change | |
| 1040 | | Requires an emergency preparedness plan. | Includes non-substantive edits for clarity. |
| 1050 | | Provides for security of opioid agonist medication supplies. | Includes non-substantive edits for clarity and inserts provisions to address electronic security measures. |
| | 1055 | Adds a new requirement for service description. Changes terminology to "managed withdrawal services" from social detoxification." | Requires providers to describe the level of services and medical management provided in the service description for managed withdrawal services. This section applies to both medical and social detoxification and all variations of this service. |
| 1060 | | Provides for cooperative agreements | Added editorial clarification. |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| | | with community agencies. | |
| 1070 | | No change. | |
| 1080 | | Requires direct-care training for detox service providers. | Revised to provide greater flexibility to providers regarding training schedules and requirements. |
| 1090 | | Requires a minimum number of staff on duty. | Revised to give greater flexibility for staff coverage consistent with the service needs. |
| 1100 | | Requires documentation of services provided. | Includes non-substantive edits for clarity. |
| 1110 | | Requires admission assessments. | Updated terminology. |
| 1120 | | No change. | |
| 1130 | | No change. | |
| 1140 | | Requires clinical and security coordination in correctional facilities. | Includes updates to terminology and non-substantive edits. |
| 1150 | | Provides general requirements for correctional facilities. | Minor edits |
| 1160 | | Requires information on sponsored residential homes. | Includes updates to terminology and minor edits for clarity. Revisions have been made throughout Article 4 of the regulations to strengthen the requirements for sponsored residential services for all populations and to incorporate requirements for licensing sponsored residential services for children, consistent with the recommendations of the Office of the Attorney General. (Sections 1160 through 1235) |
| 1170 | | Describes requirements for sponsored residential home agreements. | Provides more detail to clarify the requirements for agreements. |
| 1180 | | Describes the requirements for qualification of sponsor residential home providers. | Emphasizes and edits requirements for clarity. Provides more specific requirements for references, background, and registry checks. |
| 1190 | | Provides sponsored residential home service policies. | Provides more detail for clarity. Inserts specific schedules for licensing inspections of providers. Requires providers to give residents and their representatives an opportunity to participate in choosing placements when an individual is moved to another placement. |
| 1200 | | Provides requirements for supervision. | Provides more specificity for supervision of services. Requires a supervisor for every 15 sponsored residential homes and strengthens the reporting requirements for hospitalizations. |
| 1210 | | Provides requirements for sponsored residential home service records | Provides more specificity and strengthens requirements. |
| 1220 | | Provides regulations that pertain to staff. | Clarifies and requires documentation of compliance with relevant regulations. |
| 1230 | | Provides requirements for maximum number of beds. | Includes non-substantive edits for clarity. |
| | 1235 | Provides specific requirements for residential home services for children. | Includes new licensing requirements that pertain to homes that serve children. |
| 1240 | | Provides specific requirements for providers of case management services. | Includes non-substantive edits for clarity and inserts new provisions to ensure consistency with person-centered principles and practices. |
| 1250 | | Provides qualifications for case management employees or contractors. | Updated language for consistency and included “co-occurring disorders” in the range of illnesses that are addressed. |
| | 1255 | Requires providers to have a policy for assigning case manager. | Added the section to ensure that consistency in the assignment of case managers and ensure that individuals receiving services may have input into such assignments. |
| 1260 | | No change. | |
| 1270, 1280, | | Provides licensing requirements for community gero-psychiatric residential | Includes several minor non-substantive edits for clarity and language consistency. |

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| 1290, 1300, 1310, 1320, 1330 and 1350 | | services. | |
| 1360 | | Provides admission and discharge criteria for intensive community treatment (ICT) services and programs of assertive community treatment services (PACT). | Includes various edits and minor language revisions for clarity and consistency. Some provisions were revised to promote person-centered concepts and principles. Some language such as "high user of state mental health facility" is replaced with more specificity. |
| 1370 | | Provides staff qualifications for ICT and PACT services. | Revised for clarity and consistency with terminology used in other parts of the regulations. Specific minimum qualifications are added for simplicity and to eliminate any confusion. |
| 1380 | | No change. | |
| 1390 | | Provides requirements for ICT and PACT services daily operation and progress notes. | Includes minor language revisions for clarity and consistency. |
| 1400 | | Provides requirements for ICT and PACT services assessments. | Includes minor edits and language changes to ensure the individual receiving services has input into the assessments. |
| 1410 | | Provides requirements for ICT and PACT services and documentation. | Expands the ISP requirements to include wellness support, recovery plans. Also includes consideration of housing needs and interventions to resolve potential crises to address individual needs in the ISP. |

## Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

Many of the providers who are governed by these regulations may be considered small businesses. Changes have been made to reduce some of the costs and paperwork for those providers, such as, eliminating the requirement for an annual audit and revising the timeframe requirements for comprehensive ISPs for individuals with behavioral health issues. These regulations do not exempt small businesses from all or any part of the regulations. However, the regulations provide some requirements for specific types of service providers and in some cases, reduce the regulatory burden on these providers. Many of the regulations require the provider to develop policies. Small businesses may develop policies that are consistent with the scope of their business.

## Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This regulatory action will implement requirements for licensing providers of services. The standards provide the means for the agency to provide regulatory oversight in accordance with the law. It is also the basis for the accountability of services that are provided to a vulnerable population. This should have a positive impact on the stability of families of persons receiving services from licensed providers by promoting the quality of those services and an acceptable standard of care. The regulations encourage family involvement in services and should not have any negative impact on the authority of parents, self-sufficiency or individual responsibility, marital commitment, or family income.