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VARUN CHOUDHARY
HENRICO
REBECCA GRASER, Vice Chair
RICHMOND COUNTY
JEROME HUGHES
FAIRFAX COUNTY
KENDALL LEE
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COMMONWEALTH of VIRGINIA

DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Post Office Box 1797
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REGULAR MEETING MINUTES

9:00 a.m., Wednesday, July 15, 2020

James Monroe Building
Conference Rooms C-D-E
101 N. 14th Street
Richmond, VA 23219

The meeting was conducted electronically, with members physically assembled and three members meeting via electronic means.

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| Members Present | Elizabeth Hilscher, Chair ; Rebecca Graser, Vice Chair; Kendall Lee; Sandra Price-Stroble. |
| Members Present via Telecom | Varun Choudhary; Moira Mazzi; Djuna Osborne. |
| Members Absent | Jerome Hughes. |
| Staff Present | Jae Benz, Director, Office of Licensing. Emily Bowles, Assistant Director for Licensing, Quality, Regulatory Compliance, and Training. John Cimino, Office of Licensing Legal and Regulatory Manager. Heidi Dix, Deputy Commissioner, Division of Quality Assurance and Government Relations. Dev Nair, Ph.D., Assistant Commissioner, Division of Quality Assurance and Government Relations. Alison Land, FACHE, Commissioner. Susan Puglisi, Regulatory Research Specialist, Office of Regulatory Affairs. Ruth Anne Walker, Director of Regulatory Affairs and State Board Liaison. |
| Guests Present | None. |
| Call to Order and Introductions | At 9:10 a.m., Elizabeth Hilscher, Vice Chair, called the meeting to order and welcomed everyone. She noted that the board was meeting electronically, with members physically assembled and three members meeting via electronic means, in accordance with language in Item 4-0.01 g. of Chapter 1283 of the Acts of Assembly, 2020 Virginia General Assembly, Article 5 the Bylaws of the State Board, and the Virginia Freedom of Information Act (FOIA). All board members and department staff were able to converse, but all others on the call were muted with the ability to listen and view the |

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| | <p>screen. The meeting packet of information was located on Virginia’s Town Hall, under the ‘Meetings’ tab. Ms. Hilscher noted that there would be a period for public comment, within the timeframe allowed on the agenda.</p> <p>Ms. Hilscher conducted a roll call of members and announced a quorum was present for the meeting. She stated that Jerome Hughes had driven down the night before but had felt ill that morning and returned home, and welcomed new board member, Dr. Kendall Lee. DBHDS staff were recognized.</p> |
| <p>Approval of Agenda</p> | <p>Ms. Hilscher noted that the State Human Rights Committee requested a reappointment be considered and that would be taken up during ‘Other Business.’ <i>At 9:15 a.m. the Board voted to adopt the July 15, 2020, agenda. On a motion by Sandra Price-Stroble and a second by Moira Mazzi, the agenda was approved unanimously.</i></p> |
| <p>Officer Elections</p> | <p>(per Article 4, Bylaws)</p> <p>Ms. Hilscher noted that the process for voting was included on the agenda and reviewed with members that at the time of the elections in the summer meeting, it is sometimes the case that the chair continues to serve through the summer meeting and handles the officer elections. In this case, former chair Paula Mitchell ended her eight years of service on June 30, 2020. Since Ms. Hilscher was running for election as chair, she announced that she would temporarily pass the gavel to Ms. Price-Stroble through the voting process, who would have two hats on – as temporary chair of the board for the conduct of elections, and as chair of the Nominating Committee for the report of the committee.</p> <p>A. Presentation of the Slate of Candidates Ms. Price-Stroble, Acting Chair, directed members to the Nominating Committee minutes in the packet for the meeting held on June 3, 2020. At that meeting, then board chair Paula Mitchell presented a slate of nominees for the chair and vice chair positions, and moved to nominate Elizabeth Hilscher for the chair position and Rebecca Graser for the vice chair position. The vote was unanimous to adopt the slate as presented.</p> <p>B. Nominations from the Floor Before proceeding to vote, per the Bylaws, Ms. Price-Stroble asked members if there were any nominations from the floor. There being no further nominations, Ms. Price-Stroble moved forward with the slate with separate motions, for each officer.</p> <p>C. Election <i>At 9:20 a.m. on separate motions by Moira Mazzi and seconds by Varun Choudhary, Ms. Hilscher was elected Board Chair and Ms. Graser was elected Board Vice Chair. Both votes were unanimous.</i></p> <p>D. Passing of the Gavel</p> |

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| | Ms. Price-Stroble passed the gavel to the new chair. |
| Approval of Draft Minutes | <p>A. Regular Meeting, December 11, 2019 <i>On a motion by Sandra Price-Stroble and a second by Becky Graser, the December minutes were approved as final.</i></p> <p>B. Emergency Meeting, April 2, 2020 <i>On a motion by Sandra Price-Stroble and a second by Djuna Osborne, the agenda was approved unanimously.</i></p> <p>C. Nominating Committee, June 3, 2020 The approval of the minutes of the Nominating Committee was postponed until October until all members on the board were present to vote.</p> |
| Public Comment | <p>At 9:23 a.m., Ms. Hilscher requested members make note of questions during presentations until the speakers are finished and then ask questions, with the exception being if a clarifying answer is needed in order to continue to understand what is being presented.</p> <p>Ms. Hilscher asked if anyone present electronically wished to provide public comment. No citizen offered comment.</p> |
| Commissioner's Report | <p>At 9:25 a.m., Ms. Hilscher welcomed Commissioner Alison Land.</p> <ul style="list-style-type: none"> • The commissioner stated that the most pressing update was regarding the agency hospitals, particularly Piedmont Geriatric Hospital (PGH). During the first three months of the pandemic, hospital census was down slightly. Yet through vigilance and aggressive screening, only limited infections among facility staff and patients were seen. However in June, the census began to increase again to pre-COVID-19 levels and in some cases significantly more. In early July, DBHDS requested assistance from system stakeholders to step up efforts to discharge individuals as soon as feasible in advance of the July 4th holiday weekend. In addition, DBHDS put out a specific call to action to relieve a crisis level geriatric census at all of the state psychiatric hospitals. • Ms. Land reported that state hospitals were utilizing above 110 percent geriatric bed capacity. The geriatric units and hospital admission units are fully occupied and adult units are being used for overflow. There were continued increases on the geriatric waiting lists. All state hospitals were impacted by high census numbers, but the heaviest hit were PGH in Burkeville, Eastern State Hospital (ESH) near Williamsburg, Catawba Hospital near Salem, and Southwestern Virginia Mental Health Institute (SWVMH) in Marion. • In the previous week, three patients tested positive at PGH and as a result, the Virginia Department of Health conducted testing throughout the facility. As of July 14, 2020, there were a total of 15 patients and five staff members who tested positive. Compounding this difficult situation, Piedmont's bed utilization continued to run over 100 percent capacity. With the increase in state hospital census, it became increasingly difficult to maintain bed availability while addressing the |

infection control, staffing concerns, and isolation protocols necessary to prevent an outbreak within the agency's congregate settings. As a result, on July 14, 2020, the commissioner directed that admissions to PGH cease temporarily until further notice to ensure safety of existing patients and staff, and to protect any incoming admissions.

- DBHDS was continuing to work with Virginia's long-term care facilities and other step-down placements to identify patients appropriate for discharge to help ensure state geriatric beds are available to divert admissions from PGH. Prior to this crisis, DBHDS had signed contracts with two private entities to take individual adults under psychiatric temporary detention orders (TDOs) as a diversion or step-down and the commissioner was in active discussions with several nursing facilities regarding admitting individuals that require nursing facility level of care, including geriatric patients, after discharge.
- Since March, all 12 DBHDS facilities were aggressively fighting COVID-19. Visitation was restricted beginning in March, all staff and patients were receiving daily screening for symptoms, expanded infection control measures are firmly in place, and positive and potentially positive cases were immediately quarantined. As a result of these persistent and proactive actions, as of July 13, 2020, there were 29 cases among the approximately 5,500 staff and 16 patients among the approximately 1,850 patients at the facilities (these figures include all cases at PGH). Ms. Land was deeply grateful for the heroic efforts of staff across Virginia to keep patients and staff safe.

The commissioner then reported updates on other significant department activities.

- Staff were actively working on a reconstitution plan for DBHDS Central Office so staff could safely return to work. A three phase plan was adopted and would begin in early August if the state and national situation with the pandemic allowed. The agency's focus was on safe return, ensuring the building would not be overloaded with people at any one time, and allowing flexibility for telework, where feasible, for those with high risk conditions or those who continued to provide dependent care. The goal was not for 100 percent of staff to return to the office quickly; the goal was making sure there was a plan to fully restore agency operations and service delivery in a safe, fair, and equitable manner for all staff members.
- In addition to those activities, the pandemic significantly changed the economic forecast. As a result, during the special session, many of the gains received during the 2020 General Assembly Session for STEP-VA, behavioral health enhancement (redesign), and for discharge assistance planning (DAP) and contracts with private providers to reduce census were "unallotted" by the General Assembly. The Commonwealth might be facing up to 15% budget reductions for FY2021-22. DBHDS was working closely with the Office of the Secretary of Health and Human Resources (HHR) and developed plans for these reductions in Central

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| | <p>Office. A special legislative session would be held in August to address the budget situation and leadership was hopeful to get some of the funds restored, particularly for DAP and the contracts with private providers so that the census could continue to be addressed.</p> <ul style="list-style-type: none"> • One significant bright spot during this time was the agency’s response to the requirements of the US Department of Justice Settlement Agreement with Virginia. The 2020 General Assembly did not unallot DBHDS funding for efforts in this area (except for nursing waiver rates). The commission brought on a consultation firm in January to work with DBHDS teams to apply a project management approach to DOJ requirements. Virginia has over 300 DBHDS “compliance indicators” that must be addressed successfully to achieve compliance with the Settlement Agreement by June 2021. Commissioner Land was happy to report that Impact Makers and DBHDS project management staff worked together with the developmental disability (DD), quality assurance, and quality improvement teams and were able to map out work plans for each indicator. A “build” phase was conducted through June 30, 2020. During that time, DBHDS was able to complete the work required for each indicator. Also, a document library was developed that would be available to the public and DOJ to show the agency’s ongoing compliance. • This “build” phase was a tremendous amount of work and the agency was excited to enter the “run” phase, where DBHDS would be working closely with the many community partners required to achieve compliance, like the CSBs and other community-based providers. There were still challenges with collecting and gathering data, but now there was a plan to continue to work through despite the budget reductions, which did not address IT system concerns. <p>Members asked clarifying questions or commented on the updates. Ms. Hilscher thanked Ms. Land for her time and stated the board was grateful for the presentation.</p> |
| <p>Regulatory Actions and Updates</p> | <p>At 9:45 a.m., Ms. Hilscher referred members to the regulatory package beginning on page 23, and the five action items.</p> <p>A. Initiate Final Stage (Action 5091): Allowing a grace period for documentation of ISPs, to Amend Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services [12 VAC 35-105]</p> <p>Ms. Hilscher reviewed that this first regulatory item was the final stage to allow a grace period for the documentation of individual service plans (ISPs). The board initiated the proposed stage last July, and the 60 day public comment period closed in March. Seventeen comments were received; there was overwhelming support for the action.</p> <p><i>On a motion by Moira Mazzi and a second by Becky Graser, the motion to initiate the final stage action to amend 12-VAC35-105, the Licensing Regulations, was approved.</i></p> |

B. Response to Periodic Review: Requirements for Virginia's Early Intervention System [12 VAC 35□225]

At 9:47 a.m., Ms. Hilscher indicated that, as explained in the Town Hall form, the proposed amendments were not substantive and were clarifying in nature; thus a fast track action was before the board. Catherine Hancock, the agency Part C Administrator, gave a brief overview of the changers. *On a motion by Varun Choudhary and a second by Sandra Price-Stroble, the board voted approval to initiate a fast track action to amend 12 VAC35-225, Requirements for Virginia's Early Intervention System.*

C. Emergency Actions (per Item 318.B. of the 2020 Appropriation Act) to Amend

- a. Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services [12 VAC 35 □ 105] and**
- b. Regulations for Children's Residential Facilities [12 VAC 35 □ 46]**

At 9:50 a.m., Ms. Hilscher referred to the three new draft emergency regulations impacting two regulations, with new amending language for the board to consider. The actions came as a result of budget language for the emergency amendments in the 2020 Session of the General Assembly.

Dr. Dev Nair gave comments on the three related actions having to do with the overall effort by the Administration on Behavioral Health Redesign, stating that Item 318 of the 2020 *Appropriations Act* authorized the department to promulgate emergency regulations to:

- Align with changes to Medicaid regulations to support enhanced behavioral health services that are evidence based, trauma informed, prevention focused, and cost-effective, across the lifespan; and
- Align with the American Society of Addiction Medicine (ASAM) levels of care criteria (or equivalent) to ensure outcome oriented, strength-based care in the treatment of addiction.

As background, Dr. Nair stated that in addition to this emergency authorization, the Office of Licensing, following a periodic review, identified the need to conduct a thorough re-write of the licensing regulations, which would include shifting to a 'general' chapter that address requirements for all providers, and 'service specific' chapters that address requirements unique to those services. Thus, the emergency actions presented to the board at this meeting were an attempt to implement changes necessary to support system change that works with the current regulations, but that set the stage for the re-write of the licensing regulations that will be occurring over the next 12 months.

Behavioral Health Enhancement, which is a joint effort of the Administration through the Department of Medical Assistance Services (DMAS) and

DBHDS [and other agencies, such as Child Services Administration (CSA), the Department of Social Services (DSS), and the Department of Health Professions (DHP)] to expand services across the full continuum of care and align with evidence based practices. Phase 1 of this effort includes:

- Comprehensive crisis services.
- Assertive Community Treatment (ACT).
- Partial Hospitalization Program/Intensive Outpatient (PHP/IOP).
- Functional Family Therapy (FFT).
- Multi-systemic Family Therapy (MFT).

The plan had been to implement MST, FFT, and ACT in January 2021 and Crisis, IOP/PHP in July 2021. However, funding to implement new rates for those services was unallotted in response to COVID-19 and overall budget shortfall. Staff reviewed the impact of the regulatory changes and determined that the changes would not have a detrimental impact for implementation prior to funding; therefore, the board was requested to move forward with the regulatory changes.

In 2017, DMAS implemented the Addiction Recovery Treatment Services (ARTS) Waiver which expanded the range of services available to individuals with substance use disorder. This regulatory action would bring DBHDS licensing regulations into alignment with the requirements for the services that are reimbursed by DMAS. While the regulations would apply to all substance abuse services, not only those reimbursed by DMAS, they represent national best practices, and therefore, staff think it is appropriate. Including these levels of care in the regulations would eliminate the need for a separate certification process to determine that providers operate in accordance with the ASAM criteria. Because these services also include children's residential services, the board was presented with two actions, one for the Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services [12 VAC 35 □ 105] and one for the Regulations for Children's Residential Facilities [12 VAC 35 □ 46].

Ms. Hilscher thanked Dr. Nair for his overview and stated that her understanding from staff was that because a couple of subject matter experts are only available until 11 a.m., there was a request to first take up the emergency action listed as #3, the Amendments for Enhanced Behavioral Health Services.

1. Emergency Action: Amendments for Enhanced Behavioral Health Services

John Cimino walked board members through the changes in this emergency action, which he described as minimal. Ms. Hilscher noted that the action was presented to the board as the typical two-step process of emergency adoption plus the notice of intended regulatory action (NOIRA) for the standard process.

On a motion by Becky Graser and a second by Djuna Osborne, the board voted approval to initiate an emergency/NOIRA action to

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| | <p><i>amend the Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services [12 VAC 35-105] with these changes to address the enhanced behavioral health initiative.</i></p> <p>2. Emergency Action: Addition of ASAM Criteria [12 VAC 35 □ 105]</p> <p>3. Emergency Action: Addition of ASAM Criteria [12 VAC 35 □ 46]</p> <p>Regarding the ASAM draft language, Ms. Hilscher recognized Susie Puglisi, who provided an overview of changes to the two regulations. Ms. Hilscher noted that as with the first emergency action, both sets of draft amendments were presented to the board as emergency/NOIRA actions. Ms. Hilscher indicated her desire to consider the actions together in a block vote.</p> <p><i>On a motion by Varun Choudhary and a second by Becky Graser, the board voted approval to initiate emergency/NOIRA actions to amend the Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services [12 VAC 35-105] AND the Regulations for Children's Residential Facilities [12 VAC 35□46] with the changes to address the ASAM criteria.</i></p> <p>D. General Update – Regulatory Matrix and Workplan</p> <p>At 10:26 a.m., Ms. Walker reviewed the regulatory workplan handout that showed expected and actual regulatory actions through April 2021.</p> <p>As the board was running ahead of schedule, Ms. Hilscher called for a brief break. Upon reconvening at 10:34 a.m., the board agreed to take items out of order as the afternoon presenters were not available until later in the day.</p> |
| Miscellaneous | <p>Miscellaneous</p> <p>A. Board Liaison Reports</p> <p>Ms. Hilscher surmised that with the restrictions required during the pandemic, there were no liaison reports.</p> <p>B. Quarterly Budget Report</p> <p>Ms. Hilscher noted that there had not been many expenses due to the pandemic restricting meetings and travel, but referred members to a handout of expenses through the last quarter of the fiscal year ending on June 30, 2020.</p> |
| Other Business | <p>Committee Memberships</p> <p>At 10:36 a.m., Ms. Hilscher visited the topic of committee memberships and indicated that because of all the membership changes (due to officer elections) and the amount of regulatory work at this meeting, that a decision was made to not hold any committee meetings with this regular board meeting. Further, former chair Paula Mitchell had put some thought into the committee memberships this spring, announcing after the April meeting the</p> |

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| | <p>appointment of the Grants Review Committee members as Varun and Djuna. Also, because of the officer elections, the Bylaws require that the Board Vice Chair be the Chair of the Policy Committee and the Board Chair be on the Planning and Budget Committee. Ms. Hilscher indicated for the board’s general information that she would be communicating with members in coming weeks on decisions for committee memberships because of those two shifts, reaching out to members individually before announcing decisions. She stated that committees would be meeting in October, and also could meet outside of the regular board meeting times if the committee desired to do so.</p> <p>Next Meeting Ms. Hilscher reminded members that the next regular meeting would be on Wednesday, October 14, 2020. The board was due to travel to Marion to Southwestern Virginia Mental Health Institute (SWVMHI), but that seemed quite unlikely and it was much more likely that the meeting would be held electronically.</p> |
| Legislative Update | <p>At 10:39 a.m., Heidi Dix gave a general legislative update including the upcoming Special Session in August, an expected focus on criminal justice reforms, and then touched on five significant workgroups in progress (there are others) while also relating updates on key funding priorities the board set last July (CITACs, provider Waiver rates, STEP-VA):</p> <ol style="list-style-type: none"> 1. Medical TDO Workgroup (HB1452/SB738) 2. TDO Evaluator Workgroup (HB1699/SB768) 3. Bed Registry Workgroup (HB 1453/SB739) 4. DAP Workgroup (Item 321.C3) 5. Supported Decision Making (SDM) Workgroup (SB585) <p>Ms. Dix concluded by stating that she would ask Ms. Alex Harris, DBHDS Policy and Legislative Affairs Director, to give a more detailed presentation on the workgroups.</p> |
| | <p>(Other Business Continued) State Human Rights Committee: Request for Reappointment At 10:55 a.m., Ms. Hilscher welcomed Taneika Goldman, DBHDS Human Rights Deputy Director, to the meeting. Ms. Hilscher directed members to the letter sent by the State Human Rights Committee with a recommendation for reappointment of Will Childers by the board. Ms. Goldman referenced Mr. Childers 35 years of experience. <i>On a motion by Sandra Price-Stroble and a second by Varun Choudhary, the request to approve the SHRC’s recommendation for reappointment of Will Childers to the SHRC was approved.</i></p> |
| BREAK for Lunch | |
| DBHDS Update | <p>State Opioid Response (SOR) Grant and the State Targeted Response (STR) Grant At 1:05 p.m., Mike Zohab, SOR Project Director within the Division of Behavioral Health Services, provided an update on two federal grants.</p> |

STR: \$19.4 million - 24 month grant period (5/2017 – 4/2019)

SOR: Build on STR-funded programs;

- \$39.5 million - 24 month grant period (10/2018 – 9/2020), which includes a one-time \$8.2 million supplement.
- \$26.7 million application submitted for 2020-2021, (10/2020 – 9/2021).

The SAMHSA goals for the grants are:

- Develop and provide opioid misuse prevention, treatment, and recovery support services for the purposes of addressing the opioid abuse and overdose crisis. Build on the strategic plan that was developed during the first year of STR based on needs identified by the state.
- Implement service delivery models that enable the full spectrum of treatment and recovery support services that facilitate positive treatment outcomes and long-term recovery.
- Implement community recovery support services such as peer supports, recovery coaches, and recovery housing. Grantees must ensure that recovery housing supported under this grant is in an appropriate and legitimate facility. Individuals in recovery should have a meaningful role in developing the service array used in your program.
- Implement prevention and education services including training of healthcare professionals on the assessment and treatment of OUD, training of peers and first responders on recognition of opioid overdose and appropriate use of the opioid overdose antidote naloxone, develop evidence-based community prevention efforts including evidence-based strategic messaging on the consequence of opioid misuse, and purchase and distribute naloxone and train on its use.
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- Implement community recovery support services such as peer supports, recovery coaches, and recovery housing. Grantees must ensure that recovery housing supported under this grant is in an appropriate and legitimate facility. Individuals in recovery should have a meaningful role in developing the service array used in your program.
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| | <p>SOR projects in development:</p> <ul style="list-style-type: none"> • Drug court peer engagement; • Jails program growth; • ED bridge/peer program growth; • Family peer support programs; • Regional peer coordinators; • Tele-med expansion; • VARR-growth; and • Collegiate Recovery Program- add four more schools. |
| Update on the Virginia Association of Community Services Boards (VACSB) | Jennifer Faison was expected to provide an update on activities of the association and the status of the CSBs on specific issues. However, due to technical difficulties she was not able to join the meeting. The list of bullets below were submitted after the meeting as an addendum. |
| Adjournment | The meeting was adjourned at 1:30 p.m. |

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| Update on the Virginia Association of Community Services Boards (VACSB) | <p>ADDENDUM – Submitted by VACSB 07/28/20:</p> <ul style="list-style-type: none"> • The VACSB has been working closely with its state agency partners since the onset of the pandemic to ensure that services are in place regardless of the impact the virus is having on service delivery options. CSBs very rapidly transitioned to telehealth delivery for those services conducive to it and the VACSB is pleased to report that the public safety net for community based care has not failed during this time. While it was no easy task, at no time has a CSB been unable to meet its code mandate for services. • The VACSB will continue to work with state agency partners and the Administration to ensure that the necessary flexibilities remain in place, especially since the case counts are headed in the wrong direction. Among our priorities for the August special session are: <ul style="list-style-type: none"> ○ Increased flexibility for CSBs to use general fund dollars that are currently restricted to even out funding in other critical program areas. ○ Re-allotting funding for the DD Waiver rate refresh. ○ Preserving current relaxations regarding face-to-face requirements in DMAS and DBHDS regulations. |
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NEXT MEETING: The next meeting of the State Board will be on Wednesday, October 14, 2020. Electronic access will be available.