



## STATE MENTAL HEALTH, MENTAL RETARDATION & SUBSTANCE ABUSE SERVICES BOARD

### ANNUAL RETREAT/BUSINESS MEETING

Sunday, August 17, 2008 <i>Virginia Crossings Hotel &amp; Conference Center</i>		
2:00 pm - 3:00 pm	Arrival/Check-in Virginia Crossings Hotel	<b>1000 Virginia Center Pkwy., Glen Allen, VA</b>
3:00 pm - 4:00 pm	Planning & Budget Committee Meeting	<b>Essex Room – Jefferson Building, 3<sup>rd</sup> Fl</b>
4:00 pm - 5:00 pm	Policy Development & Evaluation Committee Meeting	<b>Henry Room – Jefferson Building, 3<sup>rd</sup> Fl</b>
5:30 pm – 9:30 pm	Dinner (for Board members housed at Virginia Crossings)	<b>Yellow Tavern</b>
Monday, August 18, 2008 <i>Virginia Crossings Hotel &amp; Conference Center</i>		
8:00 am - 8:45 am	Breakfast at the hotel (for Board members housed at the VA Crossings Hotel)	<b>The Glen Glen Restaurant</b>
9:00 am – 10:00 am	<ul style="list-style-type: none"> <li>• Welcome</li> <li>• Updates from the Office of the Secretary of Health &amp; Human Resources</li> </ul>	<b>Powhatan Room – Jefferson Building, 2<sup>nd</sup> Fl</b>  Daniel Karnes, Board Vice Chair  Heidi Dix, Assistant Deputy Secretary of HHR
10:00 am - 10:30 am	Commissioner & Deputy Commissioner Board Dialogue	James S. Reinhard, M.D., Commissioner Raymond R. Ratke, Deputy Commissioner
10:30 am – 10:45 am	BREAK	
10:45 am – 11:45 am	Commissioner & Deputy Commissioner Board Dialogue (Continued)	
11:45 am – 12:30 pm	LUNCH	<b>The Glen Restaurant – Virginia Crossings Hotel</b>
12:30 pm – 2:00 pm	Planning Session	Mary Vail Ware, Facilitator
2:00 pm – 2:15 pm	BREAK	
2:15 pm – 3:45 pm	Planning Session continued	Mary Vail Ware, Facilitator
3:45 pm – 4:00 pm	Session Wrap-Up	
5:30 pm – 9:30 pm	Dinner	The Glen Restaurant

**Tuesday, August 19, 2008**  
*Henrico Area CSB*

10:00 am	Call to Order	Daniel E. Karnes, Vice Chair
10:05 am	Introductions	
10:10 am	Approval of Agenda	
10:15 am	Approval of Minutes of June 3, 2008 <ul style="list-style-type: none"> <li>• Board Meeting Minutes</li> </ul>	
10:20 am	Public Comments ( <i>3 minutes limit per speaker</i> )	
10:30 am	Staff Updates	
10:45 am	Report of the Policy Development and Evaluation Committee <ul style="list-style-type: none"> <li>• Board and Agency Interoperability Policy 1044 (SYS) 08</li> </ul> <p style="text-align: center;">*****</p> <ul style="list-style-type: none"> <li>• 12 VAC 35-12-10 et seq. Public Participation Guidelines Regulation</li> </ul>	Charline Davidson, Director, Office of Planning & Development
11:05 am	Report of the Planning & Budget Committee	Charline Davidson, Director, Office of Planning & Development
11:20 am	CSH Employee Recognition <ul style="list-style-type: none"> <li>• Edrys Rines</li> </ul>	State MHMRSAS Board
11:30 am	Commissioner's Report	James S. Reinhard, M.D., Commissioner
12:00 pm	Board Liaison Reports	State MHMRSAS Board Members
12:15 pm	State Human Rights Committee Annual Report	State Human Rights Committee
12:30 pm	VACSB Report	Ray Gudum, Past Chair, VACSB
12:50 pm	Other Business & Adjournment	



*COMMONWEALTH OF VIRGINIA*

STATE MENTAL HEALTH,  
MENTAL RETARDATION  
AND  
SUBSTANCE ABUSE SERVICES BOARD

**REGULAR BOARD MEETING**

*AGENDA*  
August 19, 2008

Henrico Area Mental Health, Mental Retardation  
& Substance Abuse Services  
10299 Woodman Road  
Glen Allen, VA

*(Directions on Back Cover)*

**STATE MENTAL HEALTH,  
MENTAL RETARDATION  
AND  
SUBSTANCE ABUSE SERVICES BOARD**

Sunday, August 17, 2008  
3:00 p.m. Planning & Budget Committee (Virginia Crossings Hotel – Essex Room)  
4:00 p.m. Policy Development & Evaluation Committee (Virginia Crossings Hotel – Henry Room)

**DRAFT AGENDA**

**Tuesday, August 19, 2008  
10:00 A.M.  
Henrico Area CSB**

***Board Meeting***

		<b>Page #</b>
I.	10:00 Call to Order	Dan Karnes, Vice Chair
II.	10:05 Introductions	
III.	10:10 Approval of the Agenda	1-2
IV.	10:15 Approval of June 3, 2008 Minutes	3-8
V.	10:20 PUBLIC COMMENT <i>(3 minute limit per speaker)</i>	
VI.	10:30 Staff Updates	
VII.	10:45 Report of the Policy Development and Evaluation Committee	Charline Davidson, Office of Planning and Development 9-10
	➤ Policy 1044 (SYS) 08 Board and Agency Interoperability Policy	11-14
VIII.	12 VAC 35-11 Public Participation Guidelines Regulation	15-25

IX.	11:05	Report of the Planning & Budget Committee	Charline Davidson, Office of Planning and Development	28-30
X.	11:20	CSH Employee Recognition ➤ Edrys Rines		
XI.	11:30	Commissioner's Report	James S. Reinhard, M.D., Commissioner	
XII.	12:00	Board Liaison Reports	State MHMRSAS Board Members	
XIII.	12:15	State Human Rights Annual Report		
XIV.	12:30	VACSB Report	Ray Gudum, Past Chair, VACSB	
XV.	12:50	Other Business & Adjournment		

**MINUTES**

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**STATE MENTAL HEALTH, MENTAL RETARDATION  
AND SUBSTANCE ABUSE SERVICES BOARD**

**June 3, 2008**

**Eastern State Hospital – Hancock Geriatric Treatment Center  
Williamsburg, VA**

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**Members Present:** Victoria H. Cochran, **Chair**; Daniel E. Karnes, **Vice Chair**; Cheryl Ivey Green, Catherine M. Hudgins, Ruth G. Jarvis, Mary J. McQuown, Ananda K. Pandurangi and Kathryn A. Smith.

**Member Absent:** Linda S. Bartlett

**Staff:** Chanda Bragg, Regional Manager, Office of Licensing  
Wendy Brown, Policy Analyst, Office of Planning & Development  
Jewel Crosby, Executive Secretary, State Board  
Charline Davidson, Director, Office of Planning & Development  
David McGinnis, Decision Support Manager, Office of the Commissioner  
Meghan McGuire, Communications Manager, Office of Legislation & Public Relations  
Ray Ratke, Chief/Deputy Commissioner, Office of the Commissioner  
James Reinhard, M.D., Commissioner, Office of the Commissioner  
Teja Stokes, Assistant Commissioner for Special Projects, Office of the Commissioner  
Ruth Anne Walker, Legislation Manager, Office of Legislation & Public Relations

**Others:** Paul Chen, State Government Manager-Mid-Atlantic, Reckitt Benckiser  
Janis Dauer, Program Manager, Alliance for the Prevention and Treatment of Nicotine Addiction (APTNA)  
John Favret, Facility Director, Eastern State Hospital  
Ray Gudum, Chairman, VACSB  
Jane Hickey, Senior Assistant Attorney General Chief, Office of the Attorney General

**Call to Order:** Victoria Cochran, Chair, called the meeting to order at 10:15 a.m. The call for introduction of attendees took place prior to proceeding.

John Favret, Facility Director, Eastern State Hospital welcomed the Board to the facility and the new Hancock Geriatric Treatment Center. He briefed the Board on the new facility that opened April 1 and invited the Board to tour the facility and the end of the meeting. Mr. Favret distributed copies of the resident's newsletter, Pioneer Press.

**Agenda:** *Upon a motion from Daniel Karnes and seconded by Kathryn Smith, the Board unanimously approved the June 3, 2008 agenda as presented. 8-Yes; 0-No.*

**Minutes:** *Upon a motion from Mary McQuown and seconded by Catherine Hudgins, the Board voted to approved the April 1, 2008 minutes as corrected. 8-Yes; 0-No.*

**Public Comments:** Written comments from H. Brown were submitted and shared with the Board. (Attached)

**Report of the Policy Development and Evaluation Committee:**

Wendy Brown reported on behalf of the Committee. The Committee met on June 3, 2008 at 9:00 a.m. prior to the regular business meeting of the Board.

The Policy Development and Evaluation Committee recommended the adoption of the revised draft Policy 1023 – Workforce and Cultural and Linguistic Competency and revised draft Policy 1043 – Disaster and Terrorism Preparedness.

*The Board unanimously voted to adopt revised draft Policy 1023 – Workforce and Cultural and Linguistic Competency recommended by the Policy Development and Evaluation Committee. 8-Yes; 0-No.*

*The Board unanimously voted to adopt revised draft Policy 1043- Disaster and Terrorism Preparedness recommended by the Policy Development and Evaluation Committee. 8-Yes; 0-No.*

The Committee briefly discussed the proposed Interoperability Policy and agreed to have staff send the draft policy for review to the Committee in June soliciting comments/suggestions. Upon submission from the Policy Development and Evaluation Committee, the revised draft policy would be submitted for field review in July with the anticipation of adoption of the final draft at the August meeting of the Board.

**Regulatory Update:** Chanda Bragg, Senior Manager, Office of Licensing summarized proposed licensing regulation revisions developed over the past 18 months. Ms. Bragg thanked the Board for their contributions to the regulation revisions. A draft of the proposed regulations will be sent to the Board in early July for review with the anticipation that they can be adopted for public comment at the August meeting of the Board.

Wendy Brown briefed the Board on the 2008 amendment to the Code of Virginia relating to regulation of groups homes and residential facilities for children. The amendment dissolved the interdepartmental regulation of children's residential facilities and group homes, and provides that the Department regulate and license children's residential facilities and group homes for which they are the primary licensing agency. The Board is required to adopt regulations for licensing children's residential facilities to replace the existing interdepartmental licensing regulations. It is anticipated that the Board can adopt the required regulations utilizing the fast-track process.

Ms. Brown informed the Board of 2008 legislation that requires standardization of public participation guidelines for executive branch agencies. In the past, each executive branch agency had its own version of public participation guidelines. This legislation requires the Department of Planning and Budget to develop model public participation guidelines that can be adopted by all executive branch agencies. The Board will be able to adopt the model regulations to replace its existing public participation guidelines using the fast-track process.

**Report of the  
Planning and**

**Budget Committee:** Charline Davidson reported on behalf of the Committee. The Committee met at 9:00 a.m. prior to the regular business meeting of the Board. The Committee had a follow-up discussion on the status of funding the department received as part of the mental health reform legislative initiative. Ruth Anne Walker and Teja Stokes provided an overview on the work with stakeholders as required in the budget language receiving their consultation.

Ruth Anne Walker, Legislation Manager, briefed the committee on the FY 2008 Board Work Plan reviewing the Board's core responsibilities that addressed the implementation of the goals and new mechanisms set at last year's Retreat. Ms. Walker recommended establishing an Ad Hoc Committee that comes together each spring to take an active role in planning the retreat. The Committee will submit topics of interest for the retreat to Charline Davidson and Ruth Anne Walker to assist in the planning stage.

*The Chair called for a recess at 11:30 a.m. and reconvened at 11:44 a.m.*

**Presentation:** Janis M. Dauer, Program Manager, Alliance for the Prevention and Treatment of Nicotine Addition (APTNA), a nonprofit organization funded by the Virginia Department of Health—Tobacco Use Control Program. Ms. Dauer presented Dr. Reinhard with a Leadership award recognizing his efforts and support in establishing a target date for



adoption of tobacco-free ground policy in all state facilities and supporting development of individualized plans.

**Commissioner  
Report:**

Dr. Reinhard briefed the Board on areas of mental health reform, budget allocations for mental health law reform, capital investments and Central Office realignment.

Mental Health Reform

The Commission members includes representatives from private stakeholders, the Office of the Attorney General, partners of the Supreme Court, Richard Bonnie, Chief Justice, Institute of Law of Psychiatry, Public Policy and CSBs. The Commission was directed to conduct a comprehensive examination of Virginia's mental health laws and services and to study ways to use the law more effectively to serve the needs of people with mental illness, while respecting the interests of their families and communities. The General Assembly made significant changes to Virginia's Code that includes clarifying the process for civil commitment.

Dr. Reinhard informed the Board of the one-and-a-half day training scheduled covering legislative changes made in the civil commitment process as well as examine issues that arise out of the work done by the Commonwealth of Virginia Commission on Mental Health Law Reform and the Virginia Tech Review Panel. The training is scheduled to take place on June 4-5 in Charlottesville. The training will provide basic information on obtaining emergency custody and temporary detention orders and the legal criteria and procedures involved in the commitment of adults and juveniles.

Mental Health Reform Budget

Handouts of the draft Proposed FY 2009-10 CSB Allocation of Mental Health Law Reform Funds were shared with the State Board. Dr. Reinhard summarized the proposed allocations to the CSBs and methodology used.

Capital Investment

Dr. Reinhard shared that there have been a lot of talk regarding the challenge of facilities, both from the training centers standpoint and mental health facilities. He stated that they both have different issues and philosophies; however, the training centers continue to downsize due to consumer integration into the community. There continues to be a debate whether to invest in new construction of training centers due to the strong push of small group homes and Medicaid waiver homes in the community. Dr. Reinhard stated that there were currently 1400 consumers placed in five of the State's training centers. He informed the Board that funding was allocated in the bond package to renovate two of the training centers,

Central Virginia Training Center, in Lynchburg and Southeastern Virginia Training Center, in Chesapeake.

#### Central Office Realignment

Dr. Reinhard briefed the Board on the Central Office Realignment initiative. He shared that the focus of the realignment is to improve the way we do business by utilizing central office staff expertise to support facilities and CSBs in the five regions. Central Office Teams would partners to define barriers and challenges to service delivery and find solutions.

#### **Board Liaison Reports:**

**Kathryn Smith** reported that she attended the Southside Behavioral Consortium meeting and members expressed concerns regarding the status of the new dollars and accountability/expectations in the region and community. She informed the Board that she was invited to do a presentation at the Piedmont CSB updating them on the activity of the State Board. She also attended an event in Martinsville featuring Pete Early, author of the book, "Crazy". She informed the Board that she would be attending a ribbon cutting for a new office building in Rocky Mount and shared that the Commissioner will be attending as well. She was also extended an invitation to lunch with the group to discuss activity in her region.

**Ruth Jarvis** reported that she had been in contact with all of her liaison assignments and attended several meetings. She has been working with the Norfolk CSB Case Management and she has been asked to co-facilitate workshops on residential placements. She shared that the CSB was very concerned regarding the relationship established between the placement agencies and the families. She shared that she offered to be available by telephone if they need her assistance.

She informed the Board that she would be attending the official retirement celebration of Mr. George Pratt, Executive Director, Norfolk CSB on June 4.

**VACSB Report:** Ray Gudum, VACSB Chair, reported to the State Board. He distributed copies of the VACSB 2008-09 slate of officers effective July 1, 2008.

Mr. Gudum thanked Daniel Karnes and Dr. Reinhard for their commendations on his behalf at the VACSB Spring Conference in Virginia Beach recognizing his tenure as Chair to the VACSB Board.

#### **State Human Rights**

**Appointments:** The State Human Rights Committee recommended appointments of Mr. Randy J. Johnsey and Ms. Carolyn M. DeVilbiss to the State Human Rights Committee for the terms of July 1, 2008 to June 30, 2011.

*Upon a motion from Mary McQuown and seconded by Kathryn Smith, the Board unanimously approved the appointments of Mr. Randy J. Johnsey and Ms. Carolyn M. DeVilbiss to the State Human Rights Committee as presented for the term of July 1, 2008 to June 30, 2011. 8-Yes; 0-No*

**Data Update:** Dave McGinnis, Decision Support Manager, updated the Board on recent data collection and Veterans issues. Mr. McGinnis informed the Board that he serves as the Veterans Coordinator for mental health services for the state.

**Other Business:** Mr. Paul Chen, State Government Manager, Reckitt Benckiser, introduced himself as a guest for the Board records.

Ruth Anne Walker shared comments on the success of the first Governor's Conference for Mental Health and Criminal Justice Transformation held May 13 - 14, in Virginia Beach. The conference focused assisting localities in initiating their community planning for jail diversion and improves services for individuals with mental illness in the criminal justice system. Ms. Walker stated that the conference was well attended with approximately 320 attendees including judges around the Commonwealth.

The next meeting of the State Board will be held on Tuesday, August 19, 2008 in Henrico.

There being no further business before the Board, the meeting adjourned at 1:05 p.m.

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**Victoria Huber Cochran, Chair**

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**Jewel C. Crosby, Secretary**

**DRAFT MINUTES**

**STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD  
MEETING OF THE POLICY DEVELOPMENT AND EVALUATION COMMITTEE**

June 3, 2008  
Eastern State Hospital  
Williamsburg, Virginia

**Members Present:** Daniel E. Karnes, Chair; Mary J. McQuown; Anand K. Pandurangi;  
Ruth G. Jarvis

**Staff Present:** Wendy Brown

**Call to Order:** The meeting was called to order at 9:05 a.m.

**Adoption of Draft Minutes**

The members adopted the minutes of the March 31, 2008 meeting as drafted.

**Policy 1023(SYS) Workforce Linguistic and Cultural Competency**

The Chair asked Wendy Brown to discuss the revised draft Policy 1023 that had been forwarded to members prior to the meeting. Ms. Brown indicated that she had distributed the draft policy for field review and public comment following the March meeting. She summarized the comments received in response to the field review of the draft policy and suggested some language changes to reflect the comments. The Committee members discussed this draft policy and the comments and made several revisions to the proposed language for consistency and to identify the specific population groups that are discussed in this policy. It was decided that any references to “minorities” should be replaced with “population groups” for technical accuracy. The Committee also decided that Board policies should regularly use appropriate references to “intellectual disability” rather than “mental retardation” and asked Ms. Brown make these changes to the draft. With the revisions, the Committee decided to recommend the revised policy for adoption by the full Board.

**Draft Policy 1043(SYS) Disaster and Terrorism Preparedness**

The Chair asked Wendy Brown to discuss the revised draft Policy 1043 that had been distributed to members prior to the meeting. Ms. Brown had distributed this draft for field review and comment following the March meeting had received minimal response to this review process. The Committee members made several editorial changes to this policy and indicated that any references to “mental retardation” in this policy draft should be replaced with “intellectual

disability.” With the changes, the Committee decided to recommend that the full Board adopt the new policy 1043.

**Draft Policy 1044(SYS) Board and Agency Interoperability**

The Chair asked Wendy Brown to brief the Committee on about draft Policy 1044 that was distributed to members prior to the meeting. Ms. Brown indicated that this policy was drafted by staff in response to Committee discussion at the March meeting. Because of time limitations, Committee members generally felt that they did not have enough time to fully consider this draft policy at the meeting. Therefore, the Committee members decided to review the draft on an individual basis after the meeting and submit comments and any revisions to Ms Brown for incorporation into the draft. Once Ms. Brown has revised the draft version of the policy, she would distribute it for a field review and develop the policy for final consideration by the Board at the August meeting.

The committee meeting was adjourned at 10:05 am.

# POLICY MANUAL

State Mental Health, Mental Retardation and Substance Abuse Services Board  
Department of Mental Health, Mental Retardation and Substance Abuse Services

## POLICY 1044 (SYS) 08 BOARD AND AGENCY INTEROPERABILITY

**Authority** Board Minutes Dated: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
Approved by Board Chair: Victoria H. Cochran

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**References** § 37.2-203 of the *Code of Virginia* (1950), as amended  
*Envision the Possibilities: An Integrated Strategic Plan for Virginia's Mental Health, Mental Retardation and Substance Abuse Services System, 2005*  
STATE BOARD POLICY 1036 (SYS) 05-3 Vision Statement  
Rand Corporation, Monograph Report, *Interoperability: A Continuing Challenge in Coalition Air Operations (2001)*

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**Background** Section 37.2-203 2. of the *Code of Virginia* establishes the Board's authority to ensure the development of long-range programs and plans for mental health, intellectual disability, and substance abuse services provided by the Department and community services boards and behavioral health authorities (hereinafter referred to as CSBs).

STATE BOARD POLICY 1036 articulates a vision statement for guiding the the transformation of the public mental health, mental retardation, and substance abuse services system. In addition to the values contained in it, this vision statement includes the principles of inclusion, participation, and partnerships. The policy requires the Department state hospitals and training centers (hereinafter referred to as state facilities) and CSBs to incorporate this vision into their policies, procedures and daily operations and that the vision, values, and principles of the services system be reflected in and implemented through all instructions, contracts, and documents issued, entered into, or distributed by the Department, state facilities, or CSBs.

The *Integrated Strategic Plan*, developed through a process involving hundreds of interested individuals, outlines a framework for transforming Virginia's publicly funded mental health, intellectual disability, and substance abuse services system. This plan emphasizes the value of and need for partnerships in the public system of services.

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**Background** (continued) The Rand Corporation in its publication *Interoperability: A Continuing Challenge in Coalition Air Operations* defines interoperability as the ability of diverse systems and organizations to work together to facilitate meaningful contributions from the participants to address common issues or wide-ranging problems.

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**Purpose** To recognize and support the development of fundamental, positive, collaborative relationships among the Board, the Department, and other Executive Branch state agencies and their boards having related or reciprocal service missions or otherwise affecting the lives of individuals with mental illness, intellectual disability, or substance abuse disorders. These relationships will:

- Encourage and create more collegial and effective partnerships with those state agencies;
- Raise awareness among boards and agencies of the policy and regulatory impact of their actions upon these individuals; and
- Facilitate ~~the~~ recovery, realization of the fullest potential, and when therapeutically indicated, movement to independence from care ~~and from institutionalization or discharge from a facility~~ to the community that best meets the needs of these ~~populations~~ individuals and serve the best interests of the citizens of the Commonwealth.

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**Policy** It is the policy of the Board that the Department shall continually seek interoperability with other Executive Branch state agencies that provide services and other assistance to individuals with a mental illness, intellectual disability, or substance use disorders. This effort shall include the development of strategies and processes to facilitate meaningful contributions from the Department and its partner agencies in addressing the most pressing challenges experienced by those individuals and providing opportunities for them to realize their full potential. The Department and the Board shall assume a leadership role in these efforts and shall ensure that services and assistance provided in collaboration with these partner agencies are structured, to the greatest extent possible, to promote the recovery, self-determination, empowerment, resilience, health, and the highest possible level of participation in all aspects of community life for those individuals.

The Department and the Board shall also promote agency partnerships at the state, regional, and local levels that are designed to facilitate future collaborative initiatives and joint programs that align existing and planned services and resources to the goals established in the Integrated Strategic Plan and with consideration of the mission, goals, and strategic plans of other state agencies. Such initiatives shall build on the unique and complementary roles and responsibilities of the Department and its partner agencies as they address

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**Policy**  
(continued)

common issues and mutual goals for individuals with a mental illnesses, intellectual disability or substance use disorders. The Department shall also provide technical assistance to other state agencies, when appropriate, to promote its vision for the system in conjunction with these joint initiatives and service programs.

It is also policy of the Board that the Department shall take steps to improve effective and efficient use of resources among partner agencies to the greatest extent possible. This may include collaborating on federal or state grant applications and other funding opportunities that may be available to improve or enhance ~~consumer~~ individual services.

The Board and the Department shall engage other state agencies and their boards, primarily in the Health and Human Resources, Public Safety, Commerce and Trade, and Education Secretariats, to include but not be limited to the:

Department for the Aging  
Commonwealth's Attorneys' Services Council  
Community Integration Team (Executive Directive 6)  
Department of Corrections  
Department of Criminal Justice Services  
Office of the Comprehensive Services for At-Risk Youth and Families  
Department of Education  
Department of Juvenile Justice  
Department of Housing and Community Development  
Department of Medical Assistant Services  
Department of Rehabilitative Services  
State Council of Higher Education  
Department of Veterans Services  
Virginia Housing Development Authority  
Virginia Community College System  
Virginia State Police

Finally, it is the policy of the Board that it and the Department evaluate the utility and effectiveness of these collaborative efforts at the Board's Annual Planning Meeting.

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- The Governor's Community Integration (Olmstead) initiative is an existing collaborative body created by Executive Directive 6; it definitely has a related mission. Also, I believe that it is important to include the housing agencies in this list, as housing is one of the major barriers to community integration for individuals with all types of disabilities—**Julie A. Stanley, Director, Community Integration for People with Disabilities**

*Made the changes that were suggested. Included the Commerce and Trade Secretariat and added the Community Integration Team, Department of Housing and Community Development and Virginia Housing Development Authority to the list of other state agencies. (See attached Executive Directive 6)*

- Suggested changes to the third bullet under the “Policy” paragraph. Concerned that the wording implied that the state promotes a policy of state agencies concentrating on getting people out of all institutions or facilities—**Anne Sale, PAIR**

*Made the language changes that were suggested.*

## PUBLIC PARTICIPATION GUIDELINES

<p><b><u>Regulations</u></b></p>	<p>Adoption of model <u>Public Participation Guidelines 12 VAC 35-12-10 et seq.</u> and to repeal and replace the Board's current <u>Public Participation Guidelines 12 VAC 35-11- 10 et seq.</u></p>
<p><b><u>Background</u></b></p>	<p>Public Participation Guidelines (PPGs) are the Board's regulations that exist to promote public involvement in the development, amendment, or repeal of state regulations. The Code of Virginia requires every rulemaking body in Virginia to adopt PPGs and to use them as guidelines in the development of its regulations. Each rulemaking body, which includes most agency boards, has its own version of PPGs. The Board's current PPGs have been in place since July 2003.</p> <p>In its 2008 session, the Virginia General Assembly enacted legislation to amend the Code of Virginia pertaining to PPGs. The legislative intent of the change was to standardize the public participation process across state agencies so that interested members of the public know how and when to comment on various topics of interest. This legislation required the staff of the Virginia Regulatory Townhall and the Office of the Attorney General to collaborate to develop model PPGs that could be used by all state rulemaking bodies. The goal of the legislation is to promote uniformity and consistency in the public participation process among state agencies and to facilitate the participation of the public in the rulemaking process statewide. The amended law also requires that, by <u>December 1, 2008</u>, the State Board and all other Virginia rulemaking bodies either adopt model PPGs that have been developed by the Office of the Attorney General and the Department of Planning and Budget or, if they elect to make significant changes to the model PPGs, file a regulatory action for Executive Branch review.</p> <p>Because the goal of the PPG legislation is to promote uniformity and consistency in the rulemaking process, state agencies have been urged by the Executive Branch to adopt the model PPGs. We have also been cautioned that any modification that we might propose to the model PPGs will be examined carefully by the Executive Branch to determine whether it is appropriate. The model PPGs correspond closely to Board's current PPGs and provide clarification to the requirements for public participation that are already in the law (Administrative Process Act § 2.2-4007et seq. of the Code of Virginia).</p>
<p><b><u>Recommendation</u></b></p>	<p>Department staff recommends that the Board adopt the model PPGs to replace its existing PPGs so that it can comply with the amended law by the December 1, 2008 deadline and facilitate the regulatory process.</p>

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE  
ABUSE SERVICES

Model Public Participation Guidelines

CHAPTER 12

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

**12VAC35-12-10. Purpose.**

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the State Mental Health, Mental Retardation and Substance Abuse Services Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

**12VAC35-12-20. Definitions.**

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

"Administrative Process Act" means Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the State Mental Health, Mental Retardation and Substance Abuse Services Board, which is the unit of state government empowered by the agency's basic

law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by §2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at [www.townhall.virginia.gov](http://www.townhall.virginia.gov), which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§2.2-4031 et seq.) of the Administrative Process Act.

## Part II

### Notification of Interested Persons

#### **12VAC35-12-30. Notification list.**

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who

requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

**12VAC35-12-40. Information to be sent to persons on the notification list.**

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 12VAC35-12-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to §2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

### Part III

#### Public Participation Procedures

##### **12VAC35-12-50. Public comment.**

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with §2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to §2.2-4012 E of the Code of Virginia.

**12VAC35-12-60. Petition for rulemaking.**

A. As provided in §2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;



2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to §2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

**12VAC35-12-70. Appointment of regulatory advisory panel.**

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate;

or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

**12VAC35-12-80. Appointment of negotiated rulemaking panel.**

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

**12VAC35-12-90. Meetings.**

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with §2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

**12VAC35-12-100. Public hearings on regulations.**

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

**12VAC35-12-110. Periodic review of regulations.**

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to §2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in §2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

\_\_\_\_\_ (Signature of certifying official)

Name and title of certifying official: \_\_\_\_\_

Name of agency: \_\_\_\_\_

Date: \_\_\_\_\_

## State Board Policies and Regulations

<p><b>Authority of State MHMRSAS Board</b></p> <ul style="list-style-type: none"> <li>➤ The State MHMRSAS Board is a policy Board within the meaning of § 2.2-2100 of the Code of Virginia. This section of the Code classifies a board as <u>policy</u> if it is specifically charged by statute to promulgate public policies or regulations.</li> <li>➤ Virginia Code § 37.2-203 delineates the powers and duties of the State Board: <ul style="list-style-type: none"> <li>• To develop and establish programmatic and fiscal <u>policies</u> governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities; and</li> <li>• To adopt <u>regulations</u> that may be necessary to carry out the provisions of title 37.2 of the <i>Code of Virginia</i> and other laws of the Commonwealth that may be administered by the Commissioner or the Department.</li> </ul> </li> <li>➤ Article 7 of the Bylaws of the State Board establish the Policy Development and Evaluation Committee as a standing committee of the Board to carry out its statutory duties pertaining to <u>policy</u>. The Board has set forth its specific process for developing, evaluating, and revising its policies in its Policy 2010.</li> </ul>	
<p><b><u>Definition of policy</u></b></p> <p>"A plan or course of action, as of a government, political party, or business, intended to influence and determine decisions, actions, and other matters..." (<i>American Heritage Dictionary of the English Language, Fourth Edition 2006</i>)</p>	
<p><b>How is a new State Board policy initiated?</b></p>	<ul style="list-style-type: none"> <li>➤ At the direction of the Board or Board Chairperson or when it decides that new policies are needed, the Policy Development and Evaluation Committee may request central office staff in the Department to draft a policy for initial consideration by the Board.</li> </ul>
<p><b>What is the process for evaluating existing State Board policies?</b></p>	<ul style="list-style-type: none"> <li>➤ The Policy Development and Evaluation Committee establishes a review schedule in collaboration with Department staff and coordinates the evaluation process and any revision of policies with appropriate central office staff members.</li> </ul>
<p><b>How is a new or revised State Board Policy issued?</b></p>	<ul style="list-style-type: none"> <li>➤ After a thorough review and the consideration of all public comments on a new or revised State Board policy that has been developed according to the process described by the State Board policy 2010, the Policy Development and Evaluation Committee recommends the draft policy for adoption by the Board.</li> <li>➤ The State Board considers the recommendation of the Policy Development and Evaluation Committee and takes action to issue the policy or reconsider the proposed policy as it deems appropriate.</li> </ul>

<p><b>Definition of regulation</b></p> <p>A general rule governing people's rights or conduct that is promulgated by a state agency or board and has the force of law (i.e human rights or provider licensing) The Board adopts regulations in order to administer and enforce specific state laws and to implement agency objectives.... (Taken from the <i>Virginia Regulatory Townhall, Virginia Department of Planning and Budget</i>)</p>	
<p><b>How are new or amended regulations initiated?</b></p>	<ul style="list-style-type: none"> <li>➤ Each regulation must be authorized by law. Regulations are created, amended, or repealed through a regulatory action in accordance with the Virginia Administrative Process Act and the Governor's Executive Order 36.</li> <li>➤ To initiate any regulatory action, the Board must publish a Notice of Regulatory Action (NOIRA) in the Virginia Register. This notice will also appear on the Virginia Regulatory Townhall website.</li> </ul>
<p><b>What is the process for adopting regulations?</b></p>	<ul style="list-style-type: none"> <li>➤ Regulations are adopted through a specific legal process that involves: <ul style="list-style-type: none"> <li>• public review and comment ;</li> <li>• review by the Office of the Attorney General and Department of Planning and Budget; and</li> <li>• approval by the Secretary and Governor in the Executive Branch.</li> </ul> </li> <li>➤ This process takes a minimum of 18 months to complete.</li> </ul>
<p><b>How are regulations issued?</b></p>	<ul style="list-style-type: none"> <li>➤ After the Board approves final regulations, they are submitted for approval by the Executive Branch.</li> <li>➤ Once they obtain this approval, they appear on the Virginia Regulatory Townhall website and are published in the Virginia Register for 30-day final adoption period.</li> <li>➤ If there is no formal petition for additional public comment during this 30 day period, the regulations become effective and part of the Virginia Administrative Code.</li> </ul>

**DRAFT MINUTES**  
**STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD**  
**PLANNING AND BUDGET COMMITTEE**

June 3, 2008

Williamsburg, Virginia

**Members Present:** Victoria H. Cochran, Catherine M. Hudgins Kathryn A. Smith

**Absent:** The Rev. Cheryl Ivey Green, Linda S. Bartlett

**Staff Present:** Charline Davidson, Office of Planning and Development  
Ruth Anne Walker, Office of Legislation  
Teja Stokes, Assistant Commissioner, Special Projects  
Jewel Crosby, State Board Secretary

**Call to Order:** The meeting was called to order at 9:10 a.m.

**Planning and Budget Committee Meeting Minutes 3/31/2008**

Committee members reviewed and approved the draft committee minutes.

**Status of Mental Health Law Reform Funds Allocation Activities**

Ruth Anne Walker highlighted recent Department activities related to the allocation of funds appropriated in item 316#2c of the 2008 Appropriation Act. The Department, with input and feedback from the CSBs, has developed a proposed methodology to allocate most of the \$28.3 million to individual CSBs based on CSB population size. The 40 CSBs have been classified into four categories: small, medium-small, medium-large, and large CSBs. The methodology proposes that funding equivalent to three new positions would constitute the base allocation for all CSBs, with the larger CSBs receiving proportionately greater allocations. Funding for the largest CSBs would be the equivalent to six new positions. Ruth Anne explained that, although an individual CSB's funding level would be calculated based on position costs, there is no requirement or expectation that the CSB would have to use these funds to hire a specific number or type of positions with its allocation. Each CSB will be asked to develop a plan that outlines how it will use its new funds to implement the new legislative requirements related to the civil involuntary commitment process, address emergency services and case management performance expectations included in the Performance Contract, and/or increase its mandatory outpatient treatment capacity. These plans will be reviewed and approved by the Department.

Ruth Anne said that the Department is proposing that \$5 million of the FY 2010 allocation be used to address CSB needs that were unexpected or could not be met by the initial CSB allocations. If possible, the \$5 million could enhance crisis stabilization services. Additionally, \$250,000 would be reserved in FY 2010 for potential transfers to other agencies such as the Office of the Executive Secretary of the Supreme Court of Virginia (OES/SCV) or Department of Medical Assistance Services (DMAS) to address documented increased costs associated directly with implementing the mental health reform legislation. Item 316#2c requires that the Department consult with stakeholders regarding the allocation of these funds. Department staff have sought input from key stakeholders and have convened an initial meeting with representatives from the OES/SCV, DMAS, the VACSB, emergency room physicians, sheriffs, other professional associations, and the Virginia Hospital and Healthcare Association. Ruth Anne described some stakeholder comments, which

included the need to clarify that hospital staff are not responsible for sending information to clerks, and questions related to accountability issues. Another meeting with stakeholders is planned for July or August, in time to gather information that may be required for potential budget requests.

Staff and committee members discussed the proposed funding methodology and CSB involvement in the development of the methodology. In addition to Department discussions with a small subgroup of CSB executive directors, the proposed methodology was presented to the VACSB Executive Directors Forum, and distributed in draft form to all CSBs.

Members asked if the Department had established minimum standards for crisis stabilization services. The Department is pulling the crisis stabilization service leadership together to develop minimum expectations. Members suggested that this group include pre-booking diversion program representatives. Members also recommended that the Department develop information describing the various types of crisis stabilization services. A member reported that some CSBs had expressed concern regarding public attention and expectations related to the requirements associated with the mental health reform legislation.

### **State Board Annual Planning Session**

Ruth Anne Walker distributed and reviewed a handout describing progress in implementing FY 2008 State MHMRSAS Board Work Plan strategies. She asked the Committee for its thoughts on the extent to which the Board had satisfied its core responsibilities and whether new or revised mechanisms established by the Board to meet these responsibilities needed to be changed. For this year's session, members were asked to give feedback on any operational or topic areas that needed to be taken up. Additionally, the Committee was asked to consider the idea of establishing an Annual Planning Session Ad Hoc Committee that would come together each spring to take a more active role in designing that year's August planning session. Members were asked to provide all comments via e-mail by Monday, July 7<sup>th</sup>.

Committee members and staff briefly reviewed policy development and planning activities; however, most of the discussed focused on the Board's responsibility to review and comment on grant applications. At the planning session last summer, the Board recognized that many grants have a short timeframe for review and established a "quick turnaround" subcommittee comprised of Victoria Cochran and Catherine Hudgins. Committee members suggested that this process could be improved if the subcommittee could be given a "heads-up" when decisions to pursue a grant were made. Members also spoke to the need to establish a central office grants coordination function and cited several recent grant opportunities that had been missed because the Department lacked a mechanism for reshuffling agency resources to pursue grants that would address Department and Board priorities. Members also expressed interest in having regular contact with a central grants "point person" who could work with the grant review subcommittee to enhance the Department's ability to strategically leverage federal funds. Staff described efforts that are underway to improve coordination of grant activities in the central office.

Members discussed the Work Plan's intra-system strategy to provide written staff updates to the Board and suggested that focused written reports for specific priority areas and on issues as they arise would be helpful. These reports would not need to be tied to Board meetings but could be provided as the need arose.



Planning and Budget Committee Minutes  
June 3, 2008  
page 2

Members asked staff to share the Work Plan with the full Board and to request that its feedback and suggestions for Annual Planning Session be sent to Ruth Anne and Charline Davidson.

**Adjourn:** The Planning and Budget Committee meeting was adjourned at 10:05 a.m.

## Driving Directions

### **Virginia Crossings Hotel & Conference Center**



#### **North:**

I-95 South to 295, exit 84B, toward Charlottesville, merge onto US-1 North/Brook Road via Exit 43C toward Ashland; turn right onto Virginia Center Parkway.

#### **South:**

I-95 North toward Washington, take I-295 exit, Exit 84B, toward I-64 W/Charlottesville, merge onto US-1 N/Brook Road via Exit 43C toward Ashland, turn right onto Virginia Center Parkway.

#### **East:**

I-64 to I-295-N via exit 200 toward Washington, take the I-95 South/US-1 exit, Exit 43, toward Richmond/Ashland, merge onto US-1 North/Brook Road via Exit 43C toward Ashland, turn right onto Virginia Center Parkway.

#### **West:**

I-81 N toward Lexington, merge onto I-64 E via Exit 221 toward Richmond, merge onto I-295 South via Exit 177 toward Washington/Norfolk, take the I-95/US-1 exit, Exit 43 toward Richmond/Washington, merge onto US-1 North Brook Road via the exit on the left toward Ashland, turn right onto Virginia Center Parkway.

### **Henrico Area CSB**

295-South exit 177 towards Washington/Norfolk, take the Woodman Road South exit 45B, turn right onto to Woodman Road.