



COMMONWEALTH of VIRGINIA
 STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

BOARD BIENNIAL PLANNING MEETING

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

DRAFT AGENDA

July 11, 2023

1:00 p.m. – 5:00 p.m.

DBHDS 13th Floor Large Conference Room, Jefferson Building
 1220 Bank Street, Richmond, VA 23219

(*Lunch served 12:30 – 1:00 p.m.)

I.	1:00 p.m.	Welcome and Introductions	<i>Elizabeth C. Hilscher</i> <i>Chair</i>
II.	1:15 p.m.	Opening Statements	<i>Nelson Smith</i> <i>Commissioner</i>
III.	1:30 p.m.	Review and Discussion of DBHDS Strategic Plan including Metrics Update (Dashboard)	<i>Commissioner</i>
IV.	2:15 p.m.	DBHDS Budget	<i>Nathan Miles,</i> <i>Chief Financial Officer</i>
V.	2:45 p.m.	Break	
VI.	3:00 p.m.	Board Response: Biennium Priorities <i>Note: No business is conducted; discussion only.</i>	<i>Chair</i> <i>Meghan McGuire</i> <i>Deputy Commissioner, Policy and Public Affairs</i>
VII.	4:45 p.m.	Other Business <ul style="list-style-type: none"> • Proposed 2024 Meeting Dates (handout) • Nomination Procedures 	<i>Ruth Anne Walker,</i> <i>Director of Regulatory Affairs</i>
VIII.	5:00 p.m.	Adjournment	
	<i>Upon adjournment</i>	<i>Nominating Committee</i>	

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

NOMINATING COMMITTEE MEETING

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

DRAFT AGENDA

Tuesday, July 11, 2023

Upon adjournment of the Biennial Planning Meeting (approx. 5 p.m.)
DHBDS, 13th Floor Conference Room, Jefferson Building,
1220 Bank Street, Richmond, VA 23219

This meeting will be in person with all members physically present.

I.	5:00 p.m.	Call to Order	Sandra Price-Stroble <i>Committee Chair</i>
II.		Approval of July 11, 2023, Agenda ➤ <i>Action Required</i>	
III.		Consideration of Nominees for Slate ➤ <i>Action Required</i>	
IV.		Adjournment	

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

Committee Members: Sandra Price-Stroble; Moira Mazzi; Christopher Olivo

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

REGULAR MEETING

Wednesday, July 12, 2023

9:30 a.m. – 3:00 p.m.

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

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

Microsoft Teams meeting

Join on your computer, mobile app or room device

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Phone Conference ID: 226 488 246#

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1.	9:30	<p>Call to Order and Introductions</p> <p>Approval of July 12, 2023 Agenda ➤ <i>Action Required</i></p> <p>Approval of Draft Minutes Regular Meeting, March 29, 2023 Community Dinner Meeting, March 28, 2023 ➤ <i>Action Required</i></p>	<p>Elizabeth Hilscher <i>Chair</i></p>	7 15
2.	9:35	<p>Officer Elections</p> <p>A. Presentation of the Slate of Candidates B. Nominations from the Floor C. Election ➤ <i>Action Required</i></p> <p>D. Passing of the Gavel</p>	<p>Sandra Price-Stroble <i>Nominating Committee Chair</i></p>	
3.	9:45	Commissioner’s Report	<p>Nelson Smith <i>Commissioner</i></p>	
4.	10:15	Member Tour: CSH		
5.	11:15	Member Tour: HDMC		
8.	12:00	Lunch: Break and Collect Lunch		

6.	12:15	HDMC Presentation		
	12:35	CSH Presentation		
9.	1:00	Update: Virginia Association of Community Services Boards	Jennifer Faison <i>VACSB Executive Director</i>	
10.	1:20	2023 Post-Session Updates A. Budget B. Legislative	Nathan Miles <i>Budget Director</i> Josie Mace <i>Legislative Affairs Manager</i>	
15.	1:35	Committee Reports: A. Policy and Evaluation B. Planning and Budget	Josie Mace Ruth Anne Walker	19 17
11.	1:45	Regulatory Actions A. Periodic Review Result; and Initiation of Proposed Stage: Operation of the Individual and Family Support Program [12VAC35-230]. ➤ <i>Action Required</i> B. Exempt Final: Licensing Regulations [12VAC35-105-40] for Amendments per HB679 (2020) to Application Requirements. ➤ <i>Action Required</i> C. Fast Track: Streamline Training Center Regulations (Rescind 12VAC35-190; combine into 12VAC35-200) ➤ <i>Action Required</i> D. Change Action Type: Licensing Regulations, [12VAC35-105]: Mobile Medication Assisted Treatment (MAT) ➤ <i>Action Required</i> E. Regulatory Activity Status Update	Ruth Anne Walker <i>Director of Regulatory Affairs</i> Heather Norton <i>Assistant Commissioner</i> <i>Developmental Services</i> Susan Puglisi <i>Regulatory Research Specialist</i> <i>Office of Regulatory Affairs</i> Kimberly King <i>Community Integration Manager</i>	23 33 36 62
12.	2:00	Update: Forensics	Angela Torres <i>Director, Forensic Services</i>	

14.	2:20	State Human Rights Committee Appointments ➤ <i>Action Required</i>	Taneika Goldman <i>State Human Rights Director</i>	65
3.	2:40	Public Comment (3 minute limit per speaker) <i>Public comment will not be accepted on petitions for rulemaking or regulatory actions in which the comment period has closed. It is preferred that persons wishing to give comment submit an email to ruthanne.walker@dbhds.virginia.gov no later than 5:00 p.m. on July 11, 2022, indicating that they wish to provide a brief verbal comment. As the names of these individuals are announced at the beginning of the public comment period, three minutes of comment may be offered, within the overall time allowed for comments. Written public comment may be sent by email to ruthanne.walker@dbhds.virginia.gov no later than 10:00 a.m. on July 12, 2023. Instructions for calling into the meeting are included above.</i>		
16.	2:55	Miscellaneous A. Confirmation of Biennial Priorities B. Liaison Updates C. Other Business D. Next Meeting: September 27 th at PGH/VCBR, Burkeville, VA		
	3:05	Adjournment		

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

2023 MEETING SCHEDULE

DATE	Location
Sept 28 (Wed)	Piedmont Geriatric Hospital and Virginia Center for Behavioral Rehabilitation Burkeville, VA
December 7 (Wed)	Central Office, DBHDS Richmond

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Regular Meeting DRAFT MEETING MINUTES

**DBHDS Southwestern Virginia Mental Health Institute, B Building
340 Bagley Circle, Marion, VA 24354, VA**

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

Members Present	R. Blake Andis; Rebecca Graser, Vice Chair; Kendall Lee; Moira Mazzi; Christopher Olivo; and Sandra Price-Stroble.
Members Absent	Varun Choudhary; Elizabeth Hilscher, Chair.
Staff Present	<ul style="list-style-type: none"> • Ellen Harrison, Chief Deputy Commissioner. • Curt Gleeson, Assistant Commissioner, Crisis Services. • Madelyn Lent, Policy Manager. • Josie Mace, Legislative Affairs Manager. • Suzanne Mayo, Senior Director, Office of Patient Continuum Services, Facility Services Division. • Cynthia McClaskey, Ph.D., Director, Southwestern Virginia Mental Health Institute (SWVMHI). • Meghan McGuire, Deputy Commissioner, Policy and Public Affairs. • Nathan Miles, Budget Director. • Susan Puglisi, Regulatory Research Specialist. • Ruth Anne Walker, Regulatory Affairs Director and State Board Liaison.
Guests Present	<p>Invited guests:</p> <ul style="list-style-type: none"> • Jennifer Faison, Executive Director, Virginia Association of Community Services Boards. <p>Other Guests In Person:</p> <ul style="list-style-type: none"> • Mary Cole, Executive Director, Planning District 1 CSB. • Barbara Bartnik, citizen. <p>Other Guests Attending Electronically:</p> <ul style="list-style-type: none"> • Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, DARS. • Katie Boyle, Director of Government Affairs, Virginia Association of Counties. • Rebecca Herbig, Acting Director of Litigation, disability Law Center of Virginia. • Tess Hinteregger, Senior Legislative Analyst, JLARC. • Leah Mills, Deputy Secretary, Health and Human Resources. • MiMi Sedjat, Director, Eastern Shore CSB.

	<ul style="list-style-type: none"> Allyson Tysinger, Senior Assistant Attorney General, and Health Services Section Chief.
Call to Order and Introductions	<p>At 9:30 a.m., Rebecca Graser, Vice Chair, called the meeting to order and welcomed those present. A quorum of six members was physically present. Ms. Graser reported that the chair regretted that she was unable to attend.</p> <p>After introductions, on behalf of the State Board, Ms. Graser thanked Mt. Rogers CSB director and staff for the tours and meeting location yesterday and for Highlands CSB for presenting at the dinner meeting, along with comments from New River Valley Community Services, Mt. Rogers, and Dr. McClaskey.</p> <p>And that leads me to another thank you on behalf of the board, to Dr. McClaskey and all the staff here at Southwestern for the hospitality today, including the wonderful breakfast.</p>
Approval of Agenda	<p><i>At 9:31 a.m. the State Board voted to adopt the March 23, 2023, agenda. Ms. Graser asked for an amendment to add a Board Member Spotlight to the agenda. With that amendment, on a motion by Sandra Price-Stroble and a second by Kendall Lee, the agenda was approved.</i></p>
Approval of Draft Minutes	<p><i>At 9:34 a.m., on a motion by Dr. Lee and a second by Blake Andis, the December 7, 2022, minutes were approved as final.</i></p>
Public Comment	<p>Ms. Graser stated a period for public comment was included on the draft agenda, but there were no citizens signed up to speak.</p>
Director's Welcome and Presentation	<p>At 9:40 a.m., Dr. Cynthia McClaskey, Director of SWVMHI, welcomed everyone to southwestern Virginia. The presentation included information on the SWVMHI catchment area compared to the rest of Virginia; challenges of substance use disorder rates in the region, increases in admissions of individuals with intellectual or developmental disabilities, drop off admissions, an aging facility and physical plant, and workforce recruitment. In spite of challenges, SWVMHI is a values and data driven organization that focuses on hope.</p> <p>SWVMHI has continuously maintained Joint Commission accreditation, CMS Medicare IPT certification, and CMS Medicaid Nursing Facility certification since obtaining these accreditations/certifications. This is partly attributable to several strategies for success.</p> <p>There are numerous committees and activities supporting quality assurance and performance improvement, with planning around specific indicators.</p> <p>Ms. Graser expressed agreement with the emphasis on hope as part of the recovery process.</p>

	<i>Presentation available upon request.</i>
Commissioner's Report	<p>At 10:15 a.m., Ellen Harrison, Chief Deputy Commissioner, updated the State Board on the six pillars of the Governor's initiative, "Right Help, Right Now Plan," to address behavioral health challenges, encompassing crisis care, law enforcement burden, substance use disorder support, behavioral health workforce and service delivery innovation. The Governor's proposed budget for this new plan would add \$230 million new funds across several state agencies to address critical needs within the system for FY 2024. The six pillars are:</p> <ol style="list-style-type: none"> 1. Ensure same-day care for individuals experiencing behavioral health crises. 2. Relieve law enforcement's burden and reduce the criminalization of mental health. 3. Develop more capacity throughout the system, going beyond hospitals, especially community-based services. 4. Provide targeted support for substance use disorder and efforts to prevent overdose. 5. Make the behavioral health workforce a priority, particularly in underserved communities. 6. Identify service innovations and best practices in pre-crisis prevention services, crisis care, post-crisis recovery and support and develop tangible and achievable means to close capacity gaps. <p>In addition to Right Help, Right Now, Ms. Harrison reminded members of the commissioner's DBHDS North Star Plan, which is the agency strategic plan to help make broad systematic improvements in the areas of workforce, the continuum of care, and system modernization. The agency is working on ways to publish the dashboard on the DBHDS website to share it broadly with stakeholders. The board would get a review of it at a future meeting.</p> <p>Ms. Graser asked about the over 30 additional new mobile crisis teams planned. The funds help staff up the existing teams that are at about 40% staffing; this will lead to 24/7 ability to respond to 9-8-8 calls at a one-hour radius throughout the state.</p> <p>Ms. Graser also asked about CCBHCs There are four CSBs that have met all the requirements except the prospective payment piece. The proposed model will allow for the certification process for the financial sustainability, as there are four operating, but the hope is to have them in all 40 CSBs. Mt. Rogers, PD1, NRVCS, and Richmond Behavioral Health Authority have all gone through the SAMHSA grant process and the expansion grant process. They have some lessons learned for the remaining CSBs.</p> <p>Ms. Graser reported hearing of a shortage of Naloxone in the eastern part of the state, from some emergency medical technicians</p>

	<p>(EMTs). Ms. Harrison said she wants to have a conversation about that after the meeting to be sure there is no shortage. <i>Postscript: Ms. Graser inquired and confirmed that Naloxone supply is plentiful in the region.</i></p> <p>Ms. Graser asked if CSBs, through CCBHCs, will be more uniform even when the tax base for a catchment area varies. Ms. Harrison responded that this effort was started in 2016 and resulted in STEP-VA. The nine core services in STEP-VA emulate the nine mandatory services for CCBHCs for certification. STEP-VA is not completely built out but is a strong model for standardization across Virginia for access to care, even though STEP-VA is not completely built out. The prospective payment system, a new model for working with Department of Medical Assistance Services, will allow for more of a draw down of federal funds and allows for the model to do reimbursements based on expenses. Currently, it is not based on the cost of doing business; this will allow for financial sustainability. There are mandated reporting structures and outcome measurements, so there are things that will need to be done differently. But it will allow for a longer-term look at Virginia’s system of care. Ms. Graser assumed the CSBs will have to ‘up their game’ to reach certification. Ms. Harrison responded that this allows for the build out of services.</p> <p>Ms. Graser asked Dr. McClaskey about Medicare and the geriatric population, particularly in the substance use disorder treatment where Medicaid is accepted for payment but not Medicare. Dr. McClaskey responded that several state hospitals have certified adult Medicare beds. SWVMHI is the only hospital where the older population has Medicare and Medicaid. It is a challenge to get individuals off Medicaid to go into a nursing home (step downs, guardianship, etc.). Ms. Graser sees more older adults with substance use disorders in her area. <i>Presentation available upon request.</i></p> <p><i>At 10:50 a.m., Ms. Graser called for a five minute break.</i></p>
<p>Regulatory Business</p>	<p>At 10:55 a.m., Ruth Anne Walker provided a brief review of regulatory actions and drafts in process as listed in the matrix on page 13 of the packet. There may be several actions that come forward at the July meeting; however, two things that can take an unpredictable amount of time – lead office staff time to review and give revisions on drafts, and time for the Office of the Attorney General to preliminarily review drafts before they are brought to the State Board for action. It may be that a Committee of the Whole would be needed the afternoon before to give members information prior to voting the following day. The office will keep the members apprised of that possibility or the need for an additional meeting at some point in the calendar year.</p>

<p>Update: State Hospital Discharges</p>	<p>At 11:02 a.m., Suzanne Mayo, reported on challenges to the state hospital census. Namely, the impact of the bed of last resort legislation, temporary detention orders to state hospitals versus private hospitals, “front door” impacts and “back door” impacts, and discharge challenges. The extraordinary barriers to discharge (EBL) list has fluctuated with a high of 246 individuals in 2019 to 166 individuals currently. There are several protocols and paths DBHDS uses to facilitate discharge: the community integration team, planning initiatives, funded discharge resources, and older adult initiatives.</p> <p>Ms. Graser commented that the COVID-19 protocols have made it difficult to find placements. Ms. Mayo responded that the protocol will likely be updated. <i>The presentation is available upon request.</i></p>
<p>Facility Tour</p> <p>Lunch: Break and Collect Lunch</p>	<p>At 11:20 a.m., Ms. Graser announced that the meeting would suspend while board members toured the facility with Dr. McClaskey, followed by lunch. The meeting would resume at 12:30 p.m.</p>
<p>Recognition</p>	<p>At 12:36 p.m., Ms. Harrison recognized Dr. McClaskey’s dedicated 35 years of service at SWVMHI with a plaque and comments from current and former colleagues.</p>
<p>Board Member Spotlight</p>	<p>At 12:40 p.m., Christopher Olivo spoke about his family and work life. Originally from New York, he grew up surrounded by music, he likes motorcycle riding. He and his wife have always wanted their 14 year old son, Quinn, who has Downs Syndrome and other related medical conditions, to be integrated in society like anyone else. Their dog Murray is an important part of the household. His son became involved early on in the theater and Mr. Olivo builds sets for Tabb High School where he teaches math. They both love to play golf, often with Mr. Olivo’s father. Every summer they spend time at a cabin in northern Maine. The family participates in several community groups. Quinn is a member of the cheering squad.</p>
<p>Update: Virginia Association of Community Services Boards</p>	<p>At 12:50 p.m., Jennifer Faison, Executive Director, VACSB, reported on the association’s perspective on the status of the services system, and recent session activities. Because the budget has not been adopted by the General Assembly, local governments are waiting to know what funding will be available. She noted the numerous retirements from the legislature will require a lot of grassroots building of relationships with new members. She reported that the Board of Counseling has concerns about the qualified mental health professional (QMHP) members of the workforce. The association is involved with the Governor’s Prompt Placement TDO Taskforce.</p> <p>Ms. Graser noted that the Department of Health Professions Board of Counseling screening process for peer recovery specialists to</p>

	<p>register (to be able to bill Medicaid) and the issue of many PRS having criminal backgrounds. It will be addressed going forward.</p> <p>Ms. Graser also mentioned barrier crimes and the need to make it easier for PRS to be able to be hired. Ms. Faison expects that the association will be well poised next year to bring forward legislation to make more crimes screenable.</p> <p>Dr. Lee appreciates that CSBs are cognizant of the Medicaid reverification for Part C services. It won't impact some families, but will be significant for others. Anything that CSBs can do to help with that will be appreciated.</p>
<p>2023 General Assembly Legislative and Budget</p>	<p>At 1:30 p.m., Nathan Miles, Budget Director, and Josie Mace, Legislative Affairs Manager, provided information on the recent legislative session including legislative actions taken.</p> <p>Administration Bills</p> <ul style="list-style-type: none"> ▪ HB2313/SB1132 Criminal history record information; dissemination. DCJS did not think it had authority to share information with DBHDS when a patient admitted under forensic status. ▪ HB1976/SB1299 Temporary detention; release of detained individual. This allows the facility director to release an individual before expiration of the order. ▪ HB2216/SB1347 Health insurance; coverage for mobile crisis response services and residential crisis units. Commercial health insurance for mobile crisis services. <p>Other Bills of Interest</p> <ul style="list-style-type: none"> ▪ Licensing Package (HB1900, HB1945, SB1544, HB2255/SB1155). The last three bills have evolved into studies regarding reducing administrative burden on providers; as originally introduced, the language would have put the US Department of Justice's Settlement Agreement with Virginia at risk. ▪ HB1659 DBHDS; Department of Education; best practice standards related to the transition of records and transfer of services for students with disabilities. ▪ SB973 Civil commitment of sexually violent predators; penalty. This makes it a Class 6 felony for someone adjudicated as an SVP on conditional release to tamper with the ankle GPS monitor. ▪ HB1465/SB836 Problem Gambling Treatment and Support Advisory Committee. <p>Some workgroups need the budget to pass before they can convene. DBHDS has over 50 legislative reports. Legislative outreach will start in May; the changes of members in the legislature will bring committee changes and new members needing more background information. The 2024 legislative proposal development is starting soon.</p>

	<p>Mr. Miles stated that there are no changes since the budget report sent in February of the two chambers' money committee reports of changes on the Governor's proposed budget.</p> <p><i>The legislative presentation is available upon request.</i></p>
<p>Update: CIT, Cross Systems Mapping, CITAC</p>	<p>At 1:48 p.m., Curt Gleeson, Assistant Commissioner, Crisis Services, reported on Virginia's crisis system and efforts to align services into an integrated continuum that is both the least restrictive and least costly. Elements of behavioral health crisis system design and planning were reviewed, and the work within the Governor's Right Help Right Now Initiative within Workstream 1 to ensure same-day care for individuals experiencing behavioral health crises. DBHDS will evaluate new funding proposals from CSBs based upon set criteria to equitably distribute funds for projects across the state, including consideration of priority sites. A new portal for the funding submissions and evaluation process is established.</p> <p>Additional information was provided on the Right Help Right Now Workstream Two focused on relieving the law enforcement community's burden while providing care and reduce the criminalization of behavioral health.</p> <p><i>The presentation is available upon request.</i></p>
<p>Committee Reports</p>	<p>At 1:40 p.m., Ms. Graser and Josie Mace reported that the Policy and Evaluation Committee met that morning and heard background information on one policy and suggested edits from the lead office for another policy</p> <ul style="list-style-type: none"> • 1043(SYS)08-1 Disaster Preparedness (Craig Camidge). Ms. Josie Mace touched on suggested revisions from Craig Camidge, DBHDS Enterprise Management Services Director. The revisions will be decided upon at the next committee meeting. • 1023(SYS)89-1 Workforce Cultural and Linguistic Competency: Ms. Glencora Gudger provided background information on this policy. • 1008(SYS)86-3 Services for Older Adults with Mental Health or Substance Use Disorders, Intellectual Disability, or Co-Occurring Disorders (Revisions) is expected to be moved on in July. <p>At 1:45 p.m., Mr. Olivo reported on the Planning and Budget Committee:</p> <ul style="list-style-type: none"> • A presentation was received by Ms. Harrison on the details of the Governor's Right Help Right Now initiative. • A review of the schedule for the biennial planning meeting. • An update on known changes needed to the Bylaws were reviewed, with a draft to be brought to the committee in July and the full board in September. • A quarterly budget report was distributed.
<p>Miscellaneous</p>	<p>At 2:05 p.m., Ms. Graser opened the miscellaneous topics:</p>

	<p>A. <i>As amended</i>: Board Member Spotlight: Christopher Olivo.</p> <p>B. Liaison Updates: Ms. Price Stroble reported that she attended via Zoom a meeting of the region’s CSB executive directors. Dr. Lee reported receiving an to attend two Mental Health Awareness Days sponsored by Crossroads Community Services Board on May 6th in Farmville VA and May 20th in Blackstone VA. He also contacted Crossroads to schedule a time to meet with Dr. Melba Moore, Executive Director.</p> <p>C. Nominating Committee: Ms. Graser noted the hard copy memo from the chair of the 2023 Nominating Committee appointments of Ms. Price-Stroble as Chair, Ms. Mazzi and Mr. Olivo as members.</p> <p>D. 2023 December Meeting date: The meeting date was affirmed as Wednesday, December 6, 2023.</p>
Adjournment	There being no other business, Ms. Graser adjourned the meeting at 2:12 p.m.

2023 MEETING SCHEDULE

DATE	Location
Sept 28 (Wed)	Piedmont Geriatric Hospital and Virginia Center for Behavioral Rehabilitation Burkeville, VA
December 7 (Wed)	Central Office, DBHDS Richmond

COMMUNITY DINNER MEETING

DRAFT MEETING MINUTES

Tuesday, March 28, 2023

6:00 p.m. – 7:30 p.m.

Smyth-Wythe Conference Room, E.W. Cline Building (Mt. Rogers CSB)
770 West Ridge Road, Wytheville, VA 24382

Members Present	R. Blake Andis; Rebecca Graser, Vice Chair; Kendall Lee; Moira Mazzi; Christopher Olivo; and Sandra Price-Stroble.
Members Absent	Varun Choudhary; Elizabeth Hilscher, Chair.
Staff Present	<ul style="list-style-type: none">• Ellen Harrison, Chief Deputy Commissioner.• Dr. Cynthia McClaskey, Director, DBHDS SWVMHI• Ms. Merle Obregon, Training and IT Director, DBHDS SWVMHI.• Ruth Anne Walker, Regulatory Affairs Director and State Board Liaison.• Mr. Matt Woodlee, Clinical Director, DBHDS SWVMHI.
Invited Guests Present	<p><u>Highlands CSB</u></p> <ul style="list-style-type: none">• Mr. Bill Hartley, Chair, Highlands CSB.• Ms. Rebecca Holmes, Executive Director, Highlands CSB.• Wes Mullins, Deputy, Washington County Sheriff's Office.• Ike Roberts, Deputy, Washington County Sheriff's Office. <p><u>Mt. Rogers CSB</u></p> <ul style="list-style-type: none">• Sandy Bryant. Executive Director, Mt. Rogers CSB.• Mary Coulson, Chair, Mt. Rogers CSB.• Joanne GroseClose, Mt. Rogers CSB.• KJ Holbrook, Chief Clinical Officer, Mt. Rogers CSB.• Logan Nester, Communications Director, Mt. Rogers CSB. <p><u>New River Valley CSB</u></p> <ul style="list-style-type: none">• Melanie Adkins, Clinical Director, New River Valley CSB.• James Pritchett, Executive Director, New River Valley CSB.
Welcome and Introductions	<p>With all expected guests present, at 5:53 p.m., Rebecca Graser, Vice Chair, called the meeting to order and stated a quorum was present. She informed those present that no business would be conducted but information would be received on community activities in the region. Ms. Graser thanked all for attending and initiated introductions.</p> <p>Sandy Bryant, Executive Director, Mt. Rogers Community Services Board, welcomed all to the Mt. Rogers CSB.</p>
Dinner	At 6:05 p.m., Ms. Graser invited all to collect dinner and visit until the start of the presentation.

<p>Presentation: Highlands Community Services Board</p>	<p>At 6:25 p.m., Rebecca Holmes, Executive Director, Highlands CSB, presented on services provided by the CSB and numbers of individuals served. In particular, she updated the State Board on the crisis intervention team assessment center (CITAC) and other crisis services. Ms. Holmes introduced two deputies from Washington County, Deputy Wes Mullins and Deputy Ike Roberts, who work collaboratively with the CSB to provide appropriate behavioral health crisis responses. <i>Presentation available upon request.</i></p>
<p>Remarks</p>	<p>At 7:11 p.m., Cynthia B. McClaskey, Ph.D., Director of DBHDS SWVMHI Hospital, gave brief remarks on facility services and the coordination of services in the region.</p> <p>James Pritchett, Executive Director, New River Valley Community Services, and NRVCS Clinical Director Melanie Adkins, provided information on NRVCS. Ms. Bryant provided additional comment and Mt. Rogers staff KJ Holbrook and Logan Nester presented on that CSB's services.</p>
<p>Comments and Discussion</p>	<p>At 7:40 p.m., Ms. Graser opened the floor for general comments and discussion.</p>
<p>Closing Remarks</p>	<p>At 7:50 p.m., Ellen Harrison, DBHDS Chief Deputy Commissioner, remarked on the topics covered. Ms. Graser also provided comment on the information received.</p>
<p>Adjournment</p>	<p>At 7:55 p.m., on behalf of the State Board, Ms. Graser expressed sincere thanks to Sandy Bryant and Mt. Rogers CSB for arranging the two tours preceding the meeting and for the use of the administrative office space. Ms. Graser thanked Ms. Holmes for her presentation; also, Dr. McClaskey, Mr. Pritchett, and all the CSB and facility representatives. Ms. Graser then adjourned the meeting.</p>

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Planning and Budget Committee

DRAFT MINUTES

March 29, 2023

8:30 a.m. – 9:25 a.m.

DHBDS SWVMHI Small Conference Room

Marion, VA

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

Members Present: R. Blake Andis; Christopher Olivo.

Members Absent: Elizabeth Hilscher, Board and Committee Chair; (one vacancy).

Staff Present: Ellen Harrison, Ruth Anne Walker.

I. Call to Order

A quorum being present, at 8:30 a.m., Christopher Olivo, called the meeting to order.

II. Welcome and Introductions

At 8:31 a.m., Mr. Olivo welcomed all present.

III. Adoption of Minutes, December 6, 2022

At 8:32 a.m., on a motion from Blake Andis and a second from Mr. Olivo the meeting minutes from December 6, 2022, were adopted unanimously.

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

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

A. Governor's Initiative: Right Help Right Now

At 8:33 a.m., Ellen Harrison, Chief Deputy Commissioner, gave a detailed discussion on the purpose of the Right Help Right Now initiative and Virginia's activities to improve the system.

B. Review the priorities set at the Biennial Planning Meeting and topic areas for board meetings through July 2023.

At 9:00 a.m., Ms. Walker reviewed the biennial planning process upcoming in July and noted that the previous each of the 2021 priorities had been covered at least twice in meetings since 2021.

V. Other Business

A. State Board Budget Quarterly Report. *Handout*

At 9:07 a.m., the board's quarterly budget report was reviewed.

B. Discuss 2023 expected changes to the Bylaws.

At 9:10 a.m., Ms. Walker updated members on the expected changes to the Bylaws relating to changes in state law regarding electronic meetings. A draft of revisions would come to the committee in July and the full board in September. Mr. Olivo asked to see drafts of recent updates to the Bylaws to get a feel for recent changes.

VI. Next Steps:

A. Standing Item: Report Out

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

B. Next Meeting:

The next meeting is scheduled for July 12, 2023.

VII. Adjournment

At 9:15 a.m., Mr. Olivo adjourned the meeting.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Policy and Evaluation Committee

DRAFT MINUTES

MARCH 29, 2023

8:30 A.M. – 9:25 A.M.

DHBDS SWVMHI SMALL CONFERENCE ROOM

MARION, VA

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

Members Present: Rebecca Graser, Board Vice Chair and Committee Chair; Kendall Lee; Moira Mazzi; Sandra Price-Stroble.

Members Absent: Varun Choudhary.

Staff: Josie Mace, Committee Staff and Legislative Affairs Manager.
Glencora Gudger, Behavioral Health Equity Consultant, Office of Behavioral Health Wellness.
Madelyn Lent, Policy Manager, Division of Policy and Public Affairs.

Guests: MiMi Sedjat, Eastern Shore CSB.

I. Call to Order

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

II. Welcome and Introductions

Ms. Graser welcomed all present and called for introductions.

III. Review of 2023 Policy Review Plan and Presentation of Policies for Discussion

A. 1008(SYS)86-3 Services for Older Adults with Mental Health or Substance Use Disorders, Intellectual Disability, or Co-Occurring Disorders (Revisions)

No revisions were made to this policy.

B. 1040(SYS)06-3 Consumer and Family Member Involvement and Participation (Revisions)

No revisions were made to this policy.

C. 1043(SYS)08-1 Disaster Preparedness (Revisions)

Ms. Josie Mace shared with the committee suggested revisions from Craig Camidge, DBHDS Enterprise Management Services Director. The revisions will be decided upon at the next committee meeting.

D. 1044(SYS)12-1 Employment First (Revisions)

No revisions were made to this policy.

E. 1010(SYS)86-7 Board Role in the Development of the Department's Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services (Background)

Ms. Mace provided background information on this policy.

F. 1023(SYS)89-1 Workforce Cultural and Linguistic Competency (Background)

Ms. Glencora Gudger provided background information on this policy.

IV. Next Quarterly Meeting: July 12, 2023.

V. Other Business (10 min)

There was no other business to come before the committee.

VI. Adjournment

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

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Planning and Budget Committee

DRAFT AGENDA

July 12, 2023
8:30 a.m. – 9:20 a.m.

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

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

I. Call to Order

II. Welcome and Introductions

III. Adoption of Minutes, March 29, 2023

➤ *Action Required*

IV. Standing Items:

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

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

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

V. Other Business handouts

- A. Review of DRAFT 2023 amendments to the Bylaws for consideration in September, per Article 9.c. of the Bylaws.
- B. State Board Quarterly Budget Report.

VI. Next Steps:

- A. Standing Item: *Provide updates on committee planning activities to the Board.*
- B. Next Meeting (*September 27, 2023*)

VII. Adjournment

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Policy and Evaluation Committee

DRAFT AGENDA

JULY 12, 2023

8:30-9:25 AM

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

- I. Call to Order [Becky Graser, Committee Chair]**
- II. Welcome and Introductions [Becky Graser] (5 min)**
- III. Review of 2023 Policy Review Plan and Presentation of Policies for Discussion [Becky Graser and Josie Mace] (40 min)**

Revisions

- A. [1010\(SYS\)86-7](#) Board Role in the Development of the Department's Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services (Revisions)
- B. [1023\(SYS\)89-1](#) Workforce Cultural and Linguistic Competency (Revisions)

Background

- C. [1004\(SYS\)83-7](#) Prevention Services (Background)
- D. [1015\(SYS\)86-22](#) Services for Individuals with Co-Occurring Disorders (Background)

- IV. Other Business (10 min)**
- V. Next Quarterly Meeting: September 27, 2023**
- VI. Adjournment**

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



COMMONWEALTH of VIRGINIA

NELSON SMITH
COMMISSIONER

DEPARTMENT OF
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MEMORANDUM

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

Fr: Ruth Anne Walker, Director of Regulatory Affairs

Date: June 28, 2023

Re: Four Regulatory Action Items and the Regulatory Activity Status Report

I. **Action Item. Periodic Review Result; and Initiation of Proposed Stage: Operation of the Individual and Family Support Program [12VAC35-230].**

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

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

The State Board promulgated an emergency/NOIRA action July 13, 2022. An [emergency regulation](#) became effective on January 19, 2023, and will expire on July 17, 2024.

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

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

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

Changes by the Virginia Registrar: There are no additional amendments requested at this time for the [proposed stage of the permanent action](#). However, recall that information in the current regulation was moved to a ‘guidelines’ document and referenced in the amended language for this action. As part of the Code-mandated authority of the office, prior to publication as an emergency regulation, the Virginia Registrar acted to make a technical change of the Guidelines from a guidance document to a [Document Incorporated by Reference \(DIBR\): Department of Behavioral Health and Developmental Services, Individual and Family Support Program Guidelines, DD 07, Version January 9, 2023](#). This change was confirmed by the Office of the Attorney General on June 12, 2023. Minor, nonsubstantive edits were made at the same time by the Registrar to conform the regulatory language to properly reference the DIBR before publication.

The proposed stage must be filed by July 18, 2023.

Action Requested: Initiate the proposed stage of the [standard process](#).

VAC Citation	Title	Last Activity	Date
12 VAC 35-230	Operation of the Individual and Family Support Program	Emergency	01/19/2023

Next Steps: If approved, staff initiates the proposed stage.

I. CURRENT EMERGENCY LANGUAGE: For Proposed Stage (unchanged)

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

12VAC35-230-10. Definitions.

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

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

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

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

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

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

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

"Family member" means an immediate family member of an individual receiving services or the principal caregiver of that individual. A principal caregiver is a person who acts in the place of an immediate family member, including other relatives and foster care providers, but does not have a proprietary interest in the care of the individual receiving services. (§ 37.2-100 of the Code of Virginia)

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

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

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

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

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

12VAC35-230-20. Program description.

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

B. The department shall operate the IFSP directly or through a third party designated by the department to administer all or part of the IFSP, based on guidelines developed collaboratively by the department and the department's IFSP State Council.

C. Individual and Family Support Program IFSP funds shall be distributed directly to the requesting individual or custodial family member or a third party designated by the

individual or custodial family member. IFSP funds shall not supplant or in any way limit the availability of services provided through a Medicaid Home and Community-Based DD Waiver; Early and Periodic Screening, Diagnosis, and Treatment; or similar programs.

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

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

12VAC35-230-31. Community coordination.

The department shall:

1. Ensure an annual public input process that encourages the continued residence of individuals on the waiting list for a Medicaid Home and Community-Based DD Waiver in community settings.
2. Establish the IFSP State Council.
3. Develop, in coordination with the IFSP State Council, a strategic plan that is consistent with this chapter and the purpose of the IFSP and that is updated as necessary as determined by the department.
4. Provide technical assistance to individuals or family members to facilitate an individual's or a family member's access to covered services and supports listed in 12VAC35-230-55 that are intended to enhance or improve the individual's or family member's quality of life and promote the independence and continued residence of an individual with DD in the individual's own home or the family home, which includes the home of a principal caregiver.

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

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

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

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

1. Criteria for prioritized funding categories;
2. A summary of allowable expenditures;
3. Application deadlines; and
4. Award notification schedules.

D. The IFSP Guidelines shall be reviewed and updated annually.

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

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

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

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

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

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

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

12VAC35-230-45. Program implementation.

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

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

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

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

- ~~1. Professionally provided services and supports, such as respite, transportation services, behavioral consultation, and behavior management;~~
- ~~2. Assistive technology and home modifications, goods, or products that directly support the individual;~~
- ~~3. Temporary rental assistance or deposits;~~
- ~~4. Fees for summer camp and other recreation services;~~
- ~~5. Temporary assistance with utilities or deposits;~~
- ~~6. Dental or medical expenses of the individual;~~

7. Family education, information, and training;
8. Peer mentoring and family to family supports;
9. Emergency assistance and crisis support; or
10. Other direct support services as approved by the department.

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

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

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

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

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

- ~~1. A detailed description of the services or items for which funding is requested;~~
- ~~2. Documentation that the requested services or items are needed to support the continued residence of the individual with ID/DD in his own or the family home and no other public funding sources are available;~~
- ~~3. The requested funding amount and frequency of payment; and~~
- ~~4. A statement in which the individual or family member:

 - ~~a. Agrees to provide the department with documentation to establish that the requested funds were used to purchase only approved services or items; and~~
 - ~~b. Acknowledges that failure to provide documentation that the requested funds were used to purchase only approved services or items may result in recovery of such funds and denial of subsequent funding requests.~~~~

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

12VAC35-230-65. Application for funding.

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

B. Completed applications shall include the following information:

1. A description of the services or items for which funding is requested;
2. Acknowledgment that the requested services or items are needed to support the continued residence of the individual with DD in that individual's own home or the family home and no other public funding sources are available;
3. The requested funding amount; and
4. A statement in which the individual or custodial family member:

 - a. Agrees to provide to the department, if requested, documentation that the requested funds were used to purchase only services or items described in the application and approved by the department; and
 - b. Acknowledges that failure to provide documentation, when requested, that the funds applied for were used to purchase only services or items described

in the application and approved by the department may result in recovery of such funds and denial of subsequent funding requests.

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

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

~~Upon receipt of a completed application, the department shall:~~

- ~~1. Verify that the individual is on the statewide ID or IFDDS Medicaid Waiver waiting list;~~
- ~~2. Confirm that the services or items for which funding is requested are eligible for funding in accordance with 12VAC35-230-50;~~
- ~~3. Determine that the services or items for which funding is requested are needed to support the continued residence of the individual with ID/DD in his own or the family home;~~
- ~~4. Determine that other public funding sources have been fully explored and utilized and are not available to purchase or provide the requested services or items;~~
- ~~5. Evaluate the cost of the requested services or items; and~~
- ~~6. Consider past performance of the individual and family members regarding compliance with this chapter.~~

12VAC35-230-75. Reporting.

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

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

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

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

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

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

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

~~1. Approval notices shall include:~~

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

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

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

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

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

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

12VAC35-230-90. Requests for reconsideration.

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

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

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

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

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

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

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

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

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

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

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

Documents Incorporated by Reference (12VAC35-230)

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

II. **Action Item. Exempt Final Amendments per [HB679 \(2020\)](#) to Application Requirements: Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (“Licensing Regulations”) [12VAC35-105-40].**

Background: The 2020 General Assembly passed [House Bill 597](#), which created new statutory licensing requirements. Specifically, the bill created eight new requirements for both initial and renewal applications for providers of services licensed by DBHDS. Two of the new requirements states that applicants must provide:

4. A statement of (i) the legal name of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers, agents, sponsors, partners, shareholders, or members and (ii) the legal name under which the applicant, any entity that operates group homes that is affiliated with or under common ownership or control with the applicant, and any entity that operates group homes and that is affiliated with or under common ownership or control with any officer, agent, sponsor, partner, shareholder or member of the applicant to which a license to operate a service has been issued in any other state, together with a list of the states in which such licenses have been issued and the dates for which such licenses were issued;

5. A statement of any previous revocation, suspensions, or sanction comparable to those set forth in § [37.2-419](#) against any license to operate a service issued to the applicant or any entity affiliated with the applicant in any other state, including the dates and descriptions of such disciplinary actions or sanctions;

Purpose: These amendments requiring specific information to be provided during the application process need to be added to the Licensing Regulations. Amending the Licensing Regulations to add these requirements will provide comprehensive information and clarify the expectations for what specific information applicants must include as already required in state law.

Further Background: Exempt Actions

Some regulatory actions are exempt from the typical regulatory processes of the Administrative Process Act (APA): actions of exempt agencies, regulations setting rates or prices or relating to internal agency working, and regulations with technical changes or changes to strictly conform to changes in federal or state law. Most exempt regulations are published in final form only, however, some exempt actions can include notice and publication of a proposed text.

- [More details](#) about exempt regulations.
- [See Section 2.2-4002](#) and [Section 2.2-4006](#) of the Administrative Process Act.

Action Requested: Initiate an exempt final action.

VAC Citation	Title	Last Activity	Date
12 VAC 35-105	Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services	Final stage published for Behavioral Health Expansion	2/17/2023

Next Steps: If approved, staff will initiate the action.

II. DRAFT LANGUAGE

Adoption of Additional DBHDS Licensing Requirements (2020)

12VAC35-105-40. Application requirements.

A. All providers that are not currently licensed shall be required to apply for a license using the application designated by the commissioner. Providers applying for a license shall submit:

1. A working budget showing projected revenue and expenses for the first year of operation, including a revenue plan.
2. Documentation of working capital to include:
 - a. Funds or a line of credit sufficient to cover at least 90 days of operating expenses if the provider is a corporation, unincorporated organization or association, a sole proprietor, or a partnership.
 - b. Appropriated revenue if the provider is a state or local government agency, board or commission.
3. Documentation of authority to conduct business in the Commonwealth of Virginia.
4. A disclosure statement identifying the:
 - a. ~~legal~~ Legal names of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers, agents, sponsors, partners, shareholders, or members; and
 - b. Legal name under which the applicant, any entity that operates group homes that is affiliated with or under common ownership or control with the applicant, and any entity that operates group homes and that is affiliated with or under common ownership or control with any officer, agent, sponsor, partner, shareholder, or member of the applicant to which a license to operate a service has been issued in any other state; and
 - c. A list of dates of any services licensed in Virginia or other and the states that in which the applicant holds or has held such licenses; and

~~d. previous~~ Previous revocations, suspensions, sanctions, or negative actions against any license to provide services that the applicant holds or has held in any other state or in Virginia, including and the names, and dates, and descriptions of any such disciplinary actions ~~involving the applicant's current or past licensed services.~~

B. Providers shall submit an application listing each service to be provided and submit the following items for each service:

1. A staffing plan;
2. Employee credentials and job descriptions containing all the elements outlined in 12VAC35-105-410 A;
3. A service description containing all the elements outlined in 12VAC35-105-580 C; and
4. Records management policy containing all the elements outlined in 12VAC35-105-390 and 12VAC35-105-870 A.

C. The provider shall confirm his intent to renew the license prior to the expiration date of the license and notify the department in advance of any changes in service or location.

III. **Action Item. Fast Track: Streamline Training Center Regulations by Rescinding the Regulations for Voluntary Admissions to State Training Centers [12VAC35-190] and Combining into Regulations for Emergency and Respite Care Admission to State Training Centers [12VAC35-200]**

Background: As long as the Commonwealth continues to provide training center services, a regulation is needed to address admission procedures. This action merges two chapters into one, through amendments to Chapter 200 and repeal of Chapter 190. All regulatory language pertaining to admissions to DBHDS training centers are captured in the updated Chapter 200 in order to provide clarity and ease of use. Also, amendments are made to reflect current admissions practice.

There is no specific mandate tied to this action. More generally, the impetus comes from the recent periodic review and the regulatory review required by [Executive Directive 1](#). While this action does not reduce regulatory requirements, the intent is in line with making regulations clearer and facilitates accountability by becoming reflective of actual practice.

Purpose: Substantive Changes: As named and defined in the U. S. Department of Justice’s Settlement Agreement with Virginia (United States of America v. Commonwealth of Virginia, Civil Action No. 3:12cv059-JAG) (<https://dbhds.virginia.gov/doj-settlement-agreement/>; see IV.D.), the term “community integration manager” or “CIM” is added to the regulation to reference the DBHDS Central Office position physically located at the one remaining training center. This position provides support and direction for all aspects of the individual’s transition to the community including addressing identified barriers to discharge. The service goal is always to serve individuals in the least restrictive settings most appropriate to suit their needs and this position is integral to help ensure that goal is met.

The definition of respite care is removed as any respite admissions only occur for situations that are emergencies, and thus are captured under the definition of an emergency admission. [Section 807](#) of Title 37.2 of the Code of Virginia is permissive in that it states that the *‘Board may adopt regulations to provide for emergency and respite care admissions to training centers.’*

The list of criteria for admission from Chapter 190 (voluntary) is blended to with the list in Chapter 200 (emergency, including respite) to be appropriately comprehensive.

Current practices are reflected to demonstrate that:

- During the application process the CSB consults with DBHDS and makes a referral to the RST requesting an emergency meeting, and the CSB is expected to pursue all recommendations made by the RST. Only after it is determined that emergency admission is still necessary does the CSB consult with the department and request an emergency admission to the training center.

- The response time for the department to let the CSB know if the admission is accepted is changed from 24 hours to 72 hours. This provides time for part-time psychiatric staff consultation with the interdisciplinary team to review all documentation and thoroughly evaluate the request.
- The CSB shall work with the DBHDS CIM and training center staff to develop a discharge plan after emergency admission as provided in §§ 37.2-505 and 37.2-837 of the Code of Virginia.

These changes are not expected to be controversial; therefore, a [fast track action](#) seems appropriate. **It is important to note that existing, unchanged language appears as new because of the reformatting of sections to blend the two chapters as delineated in the chart preceding the text.**

Action Requested: Initiate a fast track action to repeal Chapter 190 and make combining and streamlining amendments to Chapter 200.

VAC Citation	Title	Last Activity	Date
12 VAC 35-190	Regulations for Voluntary Admissions to State Training Centers	Periodic Review	2/22/2022
12 VAC 35-200	Regulations for Emergency and Respite Care Admission to State Training Centers	Periodic Review	2/22/2022

Next Steps: If approved, staff will initiate the fast track action.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
12VAC35-190-10.		Definitions.	(Repealed.) Definitions in 190 and 200 were already identical prior to this action, except that 190 has a definition of "licensed professional" and 190 has definitions for "emergency admission," "less restrictive setting," and "respite care."

12VAC35-190-21.		Application for admission.	(Repealed.) See the newly numbered Section 45 in Chapter 200 below.
12VAC35-190-30.		Criteria for admission.	(Repealed.) See the newly numbered Section 35 in Chapter 200 below.
12VAC35-190-41.		Requests for reconsideration of the director's determination.	(Repealed.) See the newly numbered Section 50 in Chapter 200 below.
12VAC35-190-51.		Judicial certification.	(Repealed.) See the newly numbered Section 55 in Chapter 200 below.
12VAC35-200-10.		Definitions.	<p>Amendments include:</p> <ul style="list-style-type: none"> ▪ Adding: "<u>Community integration manager</u>" or "<u>CIM</u>" to reference the DBHDS Central Office position physically located at the one remaining training center. This position provides support and direction for all aspects of the individual's transition to the community including addressing identified barriers to discharge. The service goal is always to serve individuals in the least restrictive settings most appropriate to suit their needs and this position is integral to help ensure that goal is met.

			<ul style="list-style-type: none"> ▪ Adding: “or "DBHDS" to the definition of the Department of Behavioral Health and Developmental Services. ▪ Removing the definition of: "Respite care" as any respite service is captured within emergency admissions.
<p>12VAC35-200-20.</p>		<p>Respite care.</p> <p>A. Applications for respite care in training centers shall be processed through the CSB providing case management. A parent, guardian, or authorized representative seeking respite care for an individual with an intellectual disability shall apply first to the CSB that serves the area where the individual, or if a minor, the minor's parent or guardian is currently residing. The CSB shall</p>	<ul style="list-style-type: none"> ▪ Newly titled: <u>Requests for admission.</u> ▪ The section is streamlined to the following: A. Applications for respite care in <u>Requests for admission to a training centers center</u> shall be processed through the CSB providing case management. A parent, guardian, or authorized representative seeking respite care <u>admission to a training center</u> for an individual with an intellectual disability shall apply first to the CSB that serves the area where the individual, or if a minor, the minor's parent or guardian is currently residing. The CSB shall consult with the RST prior to preparing an application for respite care. If the CSB, in

		<p>consult with the RST prior to preparing an application for respite care. If the CSB, in consultation with the RST, determines that respite care for the individual is not available in the community, the CSB shall forward an application to a training center serving individuals with intellectual disabilities.</p> <p>The application shall include:</p> <ol style="list-style-type: none"> 1. An application for services; 2. A medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently 	<p>consultation with the RST, determines that respite care for the individual is not available in the community, the CSB shall forward an application to a training center serving individuals with intellectual disabilities <u>DBHDS, make a referral to the RST, and follow up on all recommendations.</u></p> <ul style="list-style-type: none"> ▪ The list of what the application should include is moved to new Section 45.
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		<p>prescribed medications as well as any known medication allergies;</p> <p>3. A social history and current housing or living arrangements;</p> <p>4. A psychological evaluation that reflects the individual's current functioning;</p> <p>5. A current individualized education plan for school-aged individuals unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;</p> <p>6. A vocational assessment for adults unless the training center director or designee</p>	
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		<p>determines that sufficient information as to the individual's abilities and needs is included in other reports received;</p> <p>7. A statement from the CSB that respite care is not available in the community for the individual;</p> <p>8. A statement from the CSB that the appropriate arrangements are being made to return the individual to the CSB within the timeframe required under this chapter; and</p> <p>9. A statement from the individual, a family member, or authorized representative specifically requesting services in the training center.</p> <p>B. Determination of eligibility for</p>	
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		<p>respite care services shall be based upon the following criteria:</p> <ol style="list-style-type: none">1. The individual has a diagnosis of intellectual disability and meets the training center's regular admission criteria;2. The individual's needs are such that, in the event of a need for temporary care, respite care would not be available in a less restrictive setting; and3. The training center has appropriate resources to meet the needs of the individual. <p>By the end of the next working day following receipt of a complete application package, the training center director or the director's designee, in consultation with</p>	
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		<p>the assistant commissioner responsible for the training center or the director's designee, shall provide written notice of the director's decision to the CSB. This notice shall state the reasons for the decision.</p> <p>If it is determined that the individual is not eligible for respite care, the person seeking respite care may ask for reconsideration of the decision by submitting a written request for such reconsideration to the commissioner. Upon receipt of such request, the commissioner or designee shall notify the training center director, and the training center director shall forward the application packet and related information to the commissioner or</p>	
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		<p>designee within 48 hours. The commissioner or designee shall provide an opportunity for the person seeking respite care to submit for consideration any additional information or reasons as to why the admission should be approved. The commissioner shall render a written decision on the request for reconsideration within 10 days of the receipt of such request and notify all involved parties. The commissioner's decision shall be binding.</p> <p>C. Respite care shall be provided in training centers under the following conditions:</p> <p>1. The length of the respite care stay at the training center shall not</p>	
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		<p>exceed the limits established in § 37.2-807 of the Code of Virginia;</p> <p>2. Space and adequate staff coverage are available on a residential living area with an appropriate peer group for the individual and suitable resources to meet his needs; and</p> <p>3. The training center has resources to meet the individual's health care needs during the scheduled respite stay as determined by a physical examination performed by the training center's health service personnel at the time of the respite admission.</p> <p>If for any reason a person admitted for respite care is not discharged at the agreed upon</p>	
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		<p>time, the CSB shall develop an updated discharge plan as provided in §§ 37.2-505 and 37.2-837 of the Code of Virginia.</p> <p>Respite shall not be used as a mechanism to circumvent the voluntary admissions procedures as provided in § 37.2-806 of the Code of Virginia.</p>	
12VAC35-200-30.		Emergency admission.	(Repealed.) See the newly numbered Section 45 below.
	12VAC35-200-35.		<p>Criteria for admission.</p> <ul style="list-style-type: none"> ▪ Language is moved from the previous 12VAC35-200-30 B for the new subsection A. ▪ Language is moved from the previous 12VAC35-200-20 B for the new subsection B.
	12VAC35-200-45.		<p>Application for admission.</p> <ul style="list-style-type: none"> ▪ Moved from the previous Section 30, for 'necessitating immediate, short-term care' (emergency, including respite).

			<ul style="list-style-type: none">▪ The first paragraph includes amendments to reflect current practice:<ul style="list-style-type: none">A. In the event of a change in circumstances necessitating immediate, short-term care for an individual with an intellectual disability, a parent, guardian, or authorized representative may request emergency admission by contacting the CSB serving the area where the individual, or in the case of a minor, the minor's parent or guardian resides. Under these circumstances if the CSB, in consultation with the RST, determines that services for the individual are not available in the community, the CSB may request an emergency admission to a training center serving individuals with intellectual disabilities. <u>The CSB shall consult with DBHDS and make a referral to the RST requesting an emergency meeting. The CSB shall pursue all recommendations made by the RST. If it is determined that</u>
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			<p><u>emergency admission is still necessary, the CSB shall consult with the department and request an emergency admission to the training center.</u></p> <ul style="list-style-type: none"> ▪ The list regarding what a request for emergency admission should include is from the previous Section 20. ▪ The time for the director or designee to notify the CSB of the decision regarding an emergency admission is changed from 24 to 72 hours. ▪ Language regarding the CSB and the RST is moved from the previous Section 30 A.
	12VAC35-200-50.		<p>Requests for reconsideration of the director's determination.</p> <ul style="list-style-type: none"> ▪ Existing language from 12VAC35-190-41 is placed here.
	12VAC35-200-55.		<p>Judicial certification.</p> <ul style="list-style-type: none"> ▪ Existing language from 12VAC35-190-51 is placed here, with language added regarding discharge: <p>Upon receipt of written notification from the training center director that an individual is</p>

			<p>eligible for <u>voluntary admission, or if the individual will not be discharged within the required timeframe following an emergency admission</u>, the CSB shall inform the individual and the individual's parent, guardian, or authorized representative of this decision and assist the parent, guardian, or authorized representative in initiating a judicial proceeding pursuant to § 37.2-806 of the Code of Virginia. When the judge has certified that the individual is eligible for admission to a training center in accordance with § 37.2-806 F of the Code of Virginia, a date for admission to the training center shall be established.</p>
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III. Response to Periodic Review, Regulations for Voluntary and Emergency Admission to State Training Centers

Chapter 190

Regulations for Voluntary Admissions to State Training Centers (REPEALED)

12VAC35-190-10. Definitions. (Repealed.)

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

~~"Admission" means acceptance of an individual in a training center.~~

~~"Authorized representative" or "AR" means a person permitted by law or regulation to authorize the disclosure of information or to consent to treatment and services or participation in human research.~~

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

~~"Community services board" or "CSB" means the public body established pursuant to § 37.2-501 of the Code of Virginia that provides mental health, developmental, and substance abuse services to individuals within each city and county that established it. For the purpose of this chapter, CSB also includes a behavioral health authority established pursuant to § 37.2-602 of the Code of Virginia.~~

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

~~"Discharge plan" means a written plan prepared by the CSB providing case management in consultation with the training center pursuant to §§ 37.2-505 and 37.2-837 of the Code of Virginia. This plan is prepared when the individual is admitted to the training center and documents the services to be provided upon discharge.~~

~~"Guardian" means:~~

- ~~1. For minors — an adult who is either appointed by the court as a legal guardian of a minor or exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent, upon provisional adoption or otherwise by operation of law.~~
- ~~2. For adults — a person appointed by the court who is responsible for the personal affairs of an incapacitated adult under the order of appointment. The responsibilities may include making decisions regarding the individual's support, care, health, safety, habilitation, education and therapeutic treatment. Refer to definition of "incapacitated person" at § 64.2-2000 of the Code of Virginia.~~

~~"Individual" means a person with an intellectual disability for whom services are sought. This term includes the terms "consumer," "patient," "resident," and "client."~~

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

~~"Licensed professional" means a licensed psychologist, licensed professional counselor, or other individual who holds a valid professional license and has appropriate training in intellectual testing.~~

~~"Regional support team" or "RST" means a group of professionals with expertise in serving individuals with developmental disabilities in the community appointed by the commissioner or the commissioner's designee who provide recommendations to support~~

~~placement in the most integrated setting appropriate to an individual's needs and consistent with the individual's informed choice.~~

~~"Training center" means a facility operated by the department that provides training, habilitation, or other individually focused supports to persons with intellectual disabilities.~~

12VAC35-190-21. Application for admission. (Repealed.)

~~A. Requests for admission to a training center shall be processed through the CSB. A parent, guardian, or authorized representative seeking admission to a training center for an individual with an intellectual disability shall apply first to the CSB that serves the area where the individual, or if a minor, the minor's parent or guardian is currently residing. The CSB shall consult with the RST prior to preparing a preadmission screening.~~

~~B. If the CSB, in consultation with the RST, determines that the services for the individual are not available in the community or the individual chooses to obtain services in the state training center, the CSB shall forward a preadmission screening report, pursuant to § 37.2-806 B of the Code of Virginia, to a training center serving individuals with intellectual disabilities.~~

~~C. The preadmission screening report shall include at a minimum:~~

- ~~1. An application for services;~~
- ~~2. A medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;~~
- ~~3. A social history and current housing or living arrangements; and~~
- ~~4. A psychological evaluation that reflects the individual's current functioning.~~

~~D. The preadmission screening report shall also include the following, as appropriate:~~

- ~~1. A current individualized education plan for school-aged individuals.~~
- ~~2. A vocational assessment for adults.~~
- ~~3. A completed discharge plan outlining the services to be provided upon discharge and anticipated date of discharge.~~
- ~~4. A statement from the individual, family member, or authorized representative requesting services in the training center.~~

12VAC35-190-30. Criteria for admission. (Repealed.)

~~A. Upon the receipt of a completed preadmission screening report, the director of the training center or designee shall determine eligibility for admission based upon the following criteria:~~

- ~~1. The individual has a diagnosis of an intellectual disability;~~
- ~~2. The diagnosis of an intellectual disability has been made by a licensed professional; and~~

~~3. The training center has available space and service capacity to meet the needs of the individual.~~

~~B. If the director, in consultation with the assistant commissioner responsible for the training center or his designee, finds that admission is not appropriate, the director shall state the reasons in a written decision and may recommend an alternative location for needed services.~~

~~C. Within 10 working days from the receipt of the completed preadmission screening report, the director of the training center or designee shall provide the written decision on the admission request to the CSB.~~

~~12VAC35-190-41. Requests for reconsideration of the director's determination. (Repealed.)~~

~~In the event that (i) the CSB making the request for admission, or (ii) the parent, guardian, or authorized representative applying on behalf of an individual disagrees with the determination of the director, either party may request a reconsideration of the determination by submitting a request in writing to the commissioner within 10 working days of receiving such determination. Upon receipt of a request for reconsideration, the commissioner shall notify the training center director and the training center director shall forward the preadmission screening report package and related information to the commissioner within 48 hours. The commissioner shall also provide an opportunity for the individual requesting reconsideration to submit for review any additional information or reasons why the admission should be approved. The commissioner shall render a written decision on the request for reconsideration within 30 calendar days of the receipt of the request and notify all involved parties. The commissioner's decision shall be binding.~~

~~12VAC35-190-51. Judicial certification. (Repealed.)~~

~~Upon receipt of written notification from the training center director that an individual is eligible for admission, the CSB shall inform the individual and the individual's parent, guardian, or authorized representative of this decision and assist the parent, guardian, or authorized representative in initiating a judicial proceeding pursuant to § 37.2-806 of the Code of Virginia. When the judge has certified that the individual is eligible for admission to a training center in accordance with § 37.2-806 F of the Code of Virginia, a date for admission to the training center shall be established.~~

Chapter 200

Regulations for Voluntary and Emergency and Respite Care Admission to State Training Centers

12VAC35-200-10. Definitions.

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

"Admission" means acceptance of an individual in a training center.

"Authorized representative" or "AR" means a person permitted by law or ~~regulations~~ regulation to authorize the disclosure of information or to consent to treatment and services or participation in human research.

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

"Community integration manager" or "CIM" means the DBHDS Central Office position physically located at the training center that is responsible for coordinating the implementation of policies, procedures, regulations, and other initiatives related to ensuring individuals residing in a training center are served in the most integrated setting appropriate to meet their needs and desires. This position provides support and direction for all aspects of the individual's transition to the community including addressing identified barriers to discharge.

"Community services board" or "CSB" means a public body established pursuant to § 37.2-501 of the Code of Virginia that provides mental health, developmental, and substance abuse services to individuals within each city and county that established it. For the purpose of this chapter, CSB also includes a behavioral health authority established pursuant to § 37.2-602 of the Code of Virginia.

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

"Discharge plan" means a written plan prepared by the CSB providing case management, in consultation with the training center pursuant to §§ 37.2-505 and 37.2-837 of the Code of Virginia. This plan is prepared when the individual is admitted to the training center and documents the services to be provided upon discharge.

"Emergency admission" means the temporary acceptance of an individual with an intellectual disability into a training center when immediate care is necessary and no other community alternatives are available.

"Guardian" means:

1. For minors -- an adult who is either appointed by the court as a legal guardian of a minor or exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent upon provisional adoption or otherwise by operation of law.
2. For adults -- a person appointed by the court who is responsible for the personal affairs of an incapacitated adult under the order of appointment. The responsibilities may include making decisions regarding the individual's support, care, health, safety, habilitation, education and therapeutic treatment. Refer to definition of "incapacitated person" at § 64.2-2000 of the Code of Virginia.

"Individual" means a person with an intellectual disability for whom services are sought. This term includes the terms "consumer," "patient," "resident," and "client."

"Intellectual disability" means a disability originating before the age of 18 years, characterized concurrently by (i) significant subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning

administered in conformity with accepted professional practice that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

"Less restrictive setting" means the service location that is no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit and protection from harm (to self and others) based on an individual's needs.

"Regional support team" or "RST" means a group of professionals with expertise in serving individuals with developmental disabilities in the community appointed by the commissioner or the commissioner's designee who provide recommendations to support placement in the most integrated setting appropriate to an individual's needs and consistent with the individual's informed choice.

~~"Respite care" means care provided to an individual with an intellectual disability on a short-term basis because of the emergency absence of or need to provide routine or periodic relief of the primary caregiver for the individual. Services are specifically designed to provide temporary, substitute care for that which is normally provided by the primary caregiver.~~

"Training center" means a facility operated by the department that provides training, habilitation, or other individually focused supports to persons with intellectual disabilities.

12VAC35-200-20. Respite care admission Requests for admission.

~~A. Applications for respite care in Requests for admission to a training center shall be processed through the CSB providing case management. A parent, guardian, or authorized representative seeking respite care admission to a training center for an individual with an intellectual disability shall apply first to the CSB that serves the area where the individual, or if a minor, the minor's parent or guardian is currently residing. The CSB shall consult with the RST prior to preparing an application for respite care. If the CSB, in consultation with the RST, determines that respite care for the individual is not available in the community, the CSB shall forward an application to a training center serving individuals with intellectual disabilities DBHDS, make a referral to the RST, and follow up on all recommendations.~~

The application shall include:

- ~~1. An application for services;~~
- ~~2. A medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;~~
- ~~3. A social history and current housing or living arrangements;~~
- ~~4. A psychological evaluation that reflects the individual's current functioning;~~
- ~~5. A current individualized education plan for school-aged individuals unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;~~

~~6. A vocational assessment for adults unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;~~

~~7. A statement from the CSB that respite care is not available in the community for the individual;~~

~~8. A statement from the CSB that the appropriate arrangements are being made to return the individual to the CSB within the timeframe required under this chapter; and~~

~~9. A statement from the individual, a family member, or authorized representative specifically requesting services in the training center.~~

~~B. Determination of eligibility for respite care services shall be based upon the following criteria:~~

~~1. The individual has a diagnosis of intellectual disability and meets the training center's regular admission criteria;~~

~~2. The individual's needs are such that, in the event of a need for temporary care, respite care would not be available in a less restrictive setting; and~~

~~3. The training center has appropriate resources to meet the needs of the individual.~~

~~By the end of the next working day following receipt of a complete application package, the training center director or the director's designee, in consultation with the assistant commissioner responsible for the training center or the director's designee, shall provide written notice of the director's decision to the CSB. This notice shall state the reasons for the decision.~~

~~If it is determined that the individual is not eligible for respite care, the person seeking respite care may ask for reconsideration of the decision by submitting a written request for such reconsideration to the commissioner. Upon receipt of such request, the commissioner or designee shall notify the training center director, and the training center director shall forward the application packet and related information to the commissioner or designee within 48 hours. The commissioner or designee shall provide an opportunity for the person seeking respite care to submit for consideration any additional information or reasons as to why the admission should be approved. The commissioner shall render a written decision on the request for reconsideration within 10 days of the receipt of such request and notify all involved parties. The commissioner's decision shall be binding.~~

~~C. Respite care shall be provided in training centers under the following conditions:~~

~~1. The length of the respite care stay at the training center shall not exceed the limits established in § 37.2-807 of the Code of Virginia;~~

~~2. Space and adequate staff coverage are available on a residential living area with an appropriate peer group for the individual and suitable resources to meet his needs; and~~

~~3. The training center has resources to meet the individual's health care needs during the scheduled respite stay as determined by a physical examination performed by the training center's health service personnel at the time of the respite admission.~~

~~If for any reason a person admitted for respite care is not discharged at the agreed upon time, the CSB shall develop an updated discharge plan as provided in §§ 37.2-505 and 37.2-837 of the Code of Virginia.~~

~~Respite shall not be used as a mechanism to circumvent the voluntary admissions procedures as provided in § 37.2-806 of the Code of Virginia.~~

12VAC35-200-30. Emergency admission. (Repealed.)

~~A. In the event of a change in an individual's circumstances necessitating immediate, short term care for an individual with an intellectual disability, a parent, guardian, or authorized representative may request emergency admission by calling the CSB serving the area where the individual, or in the case of a minor, the minor's parent or guardian resides. Under these circumstances if the CSB, in consultation with the RST, determines that services for the individual are not available in the community, the CSB may request an emergency admission to a training center serving individuals with intellectual disabilities.~~

~~The CSB shall make every effort to obtain the same case information required for respite admissions, as described in 12VAC35-200-20 A, before the training center assumes responsibility for the care of the individual in need of emergency services. However, if the information is not available, this requirement may temporarily be waived if, and only if, arrangements have been made for receipt of the required information within 48 hours of the emergency admission.~~

~~B. Acceptance for emergency admission shall be based upon the following criteria:~~

- ~~1. A change in the individual's circumstances has occurred requiring immediate alternate arrangements to protect the individual's health and safety;~~
- ~~2. The individual has a diagnosis of an intellectual disability and meets the training center's regular admissions criteria;~~
- ~~3. All other alternate care resources in the community have been explored and found to be unavailable;~~
- ~~4. Space is available on a residential living area with appropriate resources to meet the individual's needs;~~
- ~~5. The training center's health services personnel have determined that the individual's health care needs can be met by the training center's resources; and~~
- ~~6. The length of the emergency stay at the training center shall not exceed the limits established in § 37.2-807 of the Code of Virginia.~~

~~C. Within 24 hours of receiving a request for emergency admission, the training center director or the director's designee, in consultation with the assistant commissioner responsible for the training center or his designee, shall inform the CSB whether the~~

~~individual is eligible for emergency admission and whether the training center is able to provide emergency services.~~

~~If the training center is able to provide emergency services, arrangements shall be made to effect the admission as soon as possible.~~

~~If the training center is unable to provide emergency services to an eligible individual, the training center director or designee shall provide written notice of this determination to the CSB and may offer in consultation with department staff to try to obtain emergency services from another appropriate facility.~~

~~If for any reason a person admitted to a training center for emergency services is not discharged at the agreed upon time, the CSB shall develop a discharge plan as provided in §§ 37.2-505 and 37.2-837 of the Code of Virginia.~~

12VAC35-200-35. Criteria for admission.

A. Acceptance for admission shall be based upon the following criteria:

1. Receipt of a completed preadmission screening report;
2. The individual has a diagnosis of an intellectual disability made by a licensed professional;
3. All other alternate care resources in the community have been explored and found to be unavailable;
4. Space is available in a residential living area with appropriate resources to meet the individual's needs; and
5. The training center's health services personnel have determined that the individual's health care needs can be met by the training center's resources.

B. If the request is for an emergency admission:

1. There must be documentation of a change in the individual's circumstances requiring immediate alternate arrangements to protect the individual; and
2. The length of the emergency stay at the training center shall not exceed the limits established in § 37.2-807 of the Code of Virginia.

12VAC35-200-45. Application for admission.

A. Application for emergency admission:

1. In the event of a change in circumstances necessitating immediate, short-term care for an individual with an intellectual disability, a parent, guardian, or authorized representative may request emergency admission by contacting the CSB serving the area where the individual, or in the case of a minor, the minor's parent or guardian resides. The CSB shall consult with DBHDS, make a referral to the RST, and request an emergency meeting. The CSB shall pursue all recommendations made by the RST. If it is determined that emergency admission is still necessary, the CSB shall consult with the department and request an emergency admission to the training center.

2. The CSB shall make every effort to obtain the information required as described in the list below before the training center assumes responsibility for the care of the individual in need of emergency services.

3. The preadmission screening report requesting emergency admission shall include:

a. An application for services;

b. A medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;

c. A social history and current housing or living arrangements;

d. A psychological evaluation that reflects the individual's current functioning;

e. A current individualized education plan for school-aged individuals unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;

f. A vocational assessment for adults unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;

g. A statement from the CSB that the appropriate arrangements are being made to discharge the individual to a less restrictive setting within the timeframe required under this chapter; and

h. A statement from the individual, a family member, or authorized representative specifically requesting services in the training center.

4. If the information in subdivision 3 of this subsection is not available, this requirement may be temporarily waived if arrangements have been made for receipt of the required information within 48 hours of the emergency admission

5. As quickly as possible but no later than 72 hours after receiving a request for emergency admission, the training center director or the director's designee shall inform the CSB whether the individual is eligible for emergency admission and whether the training center is able to provide emergency services.

6. If an emergency admission is appropriate, and the training center is able to provide emergency services, arrangements shall be made to effect the admission as soon as possible.

15. If for any reason a person admitted to a training center for emergency services is not discharged at the agreed upon time, the CSB shall work with the CIM and training center staff to develop a discharge plan as provided in §§ 37.2-505 and 37.2-837 of the Code of Virginia.

16. If an emergency admission is appropriate, and the training center is unable to provide emergency services to an eligible individual, the training center director or the training center director's designee shall provide written notice of this

determination to the CSB and may offer, in consultation with department staff, to try to obtain emergency services from another appropriate facility.

B. Application for voluntary admission:

1. Prior to making a request for voluntary admission, the CSB shall consult with DBHDS and make a referral to the RST. The CSB shall pursue all recommendations made by the RST. If it is determined that a voluntary admission is still necessary, the CSB shall consult with the department and request an admission to the training center.

2. If the CSB, after following up on all recommendations made by the RST, determines that the services the individual needs are not available in the community or the individual chooses to obtain services in the state training center, the CSB shall consult with DBHDS and forward an application and a preadmission screening report, pursuant to § 37.2-806 B of the Code of Virginia, to the training center.

3. The preadmission screening report requesting voluntary admission shall include:

a. An application for services;

b. A medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;

c. A social history and current housing or living arrangements;

d. A psychological evaluation that reflects the individual's current functioning;

e. A current individualized education plan for school-aged individuals unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;

f. A vocational assessment for adults unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;

g. A statement from the CSB that the appropriate arrangements are being made to discharge the individual to a less restrictive setting; and

h. A statement from the individual, a family member, or authorized representative specifically requesting services in the training center.

4. Upon the receipt of a completed preadmission screening report, the director of the training center or the training center director's designee shall determine eligibility for voluntary admission based upon the admissions criteria.

5. Within 10 business days from the receipt of the completed preadmission screening report, the training center director or designee shall provide to the CSB the written decision on the request for voluntary admission. If the training center director, in consultation with the assistant commissioner responsible for the

training center or the assistant commissioner's designee, finds that admission is not appropriate, the training center director shall state the reasons in a written decision and may recommend an alternative location for needed services.

12VAC35-200-50. Requests for reconsideration of the director's determination.

In the event that (i) the CSB making the request for admission or (ii) the parent, guardian, or authorized representative applying on behalf of an individual disagrees with the determination of the director, either party may request a reconsideration of the determination by submitting a request in writing to the commissioner within 10 business days of receiving such determination. Upon receipt of a request for reconsideration, the commissioner shall notify the training center director and the training center director shall forward the preadmission screening report package and related information to the commissioner within 48 hours. The commissioner shall also provide an opportunity for the individual requesting reconsideration to submit for review any additional information or reasons why the admission should be approved. The commissioner shall render a written decision on the request for reconsideration within 30 calendar days of the receipt of the request and notify all involved parties. The commissioner's decision shall be binding.

12VAC35-200-55. Judicial certification.

Upon receipt of written notification from the training center director that an individual is eligible for voluntary admission, or if the individual will not be discharged within the required timeframe following an emergency admission, the CSB shall inform the individual and the individual's parent, guardian, or authorized representative of this decision and assist the parent, guardian, or authorized representative in initiating a judicial proceeding pursuant to § 37.2-806 of the Code of Virginia. When the judge has certified that the individual is eligible for admission to a training center in accordance with § 37.2-806 F of the Code of Virginia, a date for admission to the training center shall be established.

IV. Action Item. Withdrawal of Exempt Final. Initiate Fast Track: Integration of the Final Federal Rule: Registration Requirements for Narcotic Treatment Programs with Mobile Components into the Licensing Regulations

Background: In June 2021, the federal Drug Enforcement Administration (DEA) published a final rule permitting DEA registrants who are authorized to dispense methadone for opioid use disorder to add a “mobile component” to their existing registrations. The Department of Behavioral Health and Developmental Services (DBDHS) is integrating these federal regulations into the Licensing Regulations due to provider interest in supplying these mobile medication assisted treatment (mobile MAT) services. The integration of the federal rules within the Licensing Regulations shall increase transparency and set administrative expectations for this service. The availability of mobile MAT is expected to help address the [opioid crisis](#) in Virginia.

The State Board voted on December 7, 2022, to initiate the exempt stage titled ‘Integration of the final federal rule: Registration Requirements for Narcotic Treatment Programs with Mobile Components into the Licensing Regulations’ to amend the Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services [12VAC35-105]. The action was submitted to the Office of the Attorney General on December 8, 2022, to start the formal process for adoption.

Purpose: On June 16, 2023, the Office of the Attorney General indicated that upon further review this action could not move forward as exempt because the agency has discretion on whether or not to adopt regulations to align with federal regulation. These changes are not controversial; therefore, a fast track action is appropriate. The language will remain exactly the same. Note: While the December promulgation was public information via the board packet and minutes, actions are not visible on Town Hall until receiving certification from the Office of the Attorney General. To view the language as passed, see [page 23 of the December meeting packet](#).

Action Requested: Approve withdrawal of the exempt final action and initiation of a fast track action.

VAC Citation	Title	Last Activity	Date
12 VAC 35-105	Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services	Final stage published for Behavioral Health Expansion	2/17/2023

Next Steps: Staff will withdraw the current action and initiate the fast track.

V. REGULATORY ACTIVITY STATUS REPORT: JULY 2023 (REVISED 06/28/23)

Board		STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES		
VAC CITATION	CHAPTER TITLE (FULL TITLE)	REGULATIONS IN PROCESS		
		PURPOSE	STAGE	STATUS
12 VAC 35-46 Certain sections and NEW Sections 1150-1250.	Regulations for Children's Residential Facilities	In accordance with Item 318.D. of the 2021 Appropriation Act to align with the requirements of the federal Family First Prevention Service Act to meet the standards as qualified residential treatment programs (QRTPs).	<ul style="list-style-type: none"> Emergency: To Standard. 	<ul style="list-style-type: none"> Effective 01/10/22. Extended emergency expires 1/8/2024. Currently in proposed stage with ORM as of 6/20/2023. <i>Final stage must be filed for a 30 day forum no later than 11/14 to publish on 12/4 to be effective before emergency expires.</i>
12 VAC 35-46 Certain sections and NEW Sections.	<i>same</i>	To provide the process and standards for licensing children's residential facilities.	<ul style="list-style-type: none"> Draft in progress. 	<ul style="list-style-type: none"> Public comment closed 5/16/2022. <i>Amend (overhaul); draft in progress.</i>
12 VAC 35-46 Certain sections	<i>same</i>	'Low hanging fruit' to comply with EO1, removing noncontroversial language.	<ul style="list-style-type: none"> Fast Track draft in progress. 	<ul style="list-style-type: none"> <i>Expect in September.</i>
<u>12 VAC 35-105</u> Certain sections.	Rules and Regulations for Licensing Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services	Amendments to incorporate federal Drug Enforcement Administration (DEA) final rule permitting DEA registrants who are authorized to dispense methadone for opioid use disorder to add a "mobile component" to their existing registrations; due to provider interest in supplying these mobile medication assisted treatment (mobile MAT) services.	<ul style="list-style-type: none"> Exempt final changing to fast track per OAG. 	<ul style="list-style-type: none"> <i>The exempt final action filed 12/8/2022 was deemed to not be exempt by the OAG, and must shift to another process. A fast track process is appropriate.</i>
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>	'Low hanging fruit' to comply with EO1, removing noncontroversial language.	<ul style="list-style-type: none"> Fast Track draft in progress. 	<ul style="list-style-type: none"> <i>Expect in September.</i>
<u>12 VAC 35-115</u>	Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services	To protect the legal and human rights of all individuals who receive services in programs and facilities operated, funded, or licensed by DBHDS.	<ul style="list-style-type: none"> ➤ Draft in progress. 	<ul style="list-style-type: none"> A public comment forum closed on 01/25/2021. <i>Amend; draft in progress. Informal review by the OAG continues.</i>

12 VAC 35-190	Regulations for Voluntary Admissions to State Training Centers	To detail criteria and procedures for voluntarily admitting persons to a state training center>	➤ Fast Track action requested.	➤ <i>Action requested to rescind.</i>
12 VAC 35-200	Regulations for Emergency and Respite Care Admission to State Training Centers	To establish the conditions and procedures through which an individual can access emergency services and respite care in a state training center.	➤ Fast Track action requested.	➤ <i>Action requested to amend.</i>
12 VAC 35-210	Regulations to Govern Temporary Leave from State Facilities	To establish the general process and requirements related to temporary leave from state facilities	➤ <i>Draft in progress.</i>	• <i>Amend minimally; draft in progress. Expect in September.</i>
12 VAC 35-230	Operation of the Individual and Family Support Program	In accordance with the mandate in Item 313.NN. of the 2022 Special Session 1 Appropriation to facilitate compliance with the U. S. Department of Justice’s Settlement Agreement with Virginia by establishing criteria, annual funding priorities, and to ensure annual public input.	➤ <i>Emergency/NOIRA and periodic review.</i>	➤ <i>Action requested: Initiate proposed stage. Proposed stage must be filed by 7/18/2023.</i>
12 VAC 34-250	Certified Recovery Residences	To implement the changes in the Code of Virginia per HB 277/SB 622 (2022) regarding DBHDS certification, minimum square footage, and disclosure of credentialing entity.	• <i>Fast track in progress.</i>	• Submitted to OAG on 12/8/2022. <i>DPB review initiated 6/9/2023.</i>

Additional Activities:

▪ **Office of Licensing Regulatory Advisory Panel: Overhaul of Ch. 46 and 105. Meetings 6/20, 6/27, and 7/11.**

The RAP was established per the DBHDS Public Participation Guidelines to “provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action...” on the “overhaul” of the Licensing Regulations into drafts for a General Chapter applying to all services and five new service-specific chapters: Residential Services, Center-Based Services, Home/Non-Center Based Services, Case Management, and Crisis Services. Membership on the RAP is by invitation; persons from state agency partners and providers statewide were invited. The meetings are formal in nature and open to the public.

▪ **DBHDS 2023 Combined Study Workgroup. Meetings 7/20, 7/27, and 8/3.**

The combined legislative workgroup meetings will have an opportunity for public comment. In the coming days, the department will distribute broadly a survey to you, providers, and other interested stakeholders to gather valuable feedback on current Licensing and Human Rights regulations and the impacts to providers and members of the community. The results will be disseminated and used as points of discussion regarding recommendations at three workgroup meetings. Research has been and will continue to be conducted to collect information from other states and various sources on these issues. The required input and report from these studies will be combined.

Bill	<u>HB2255 (Hodges)/SB1155 (Mason)</u>	<u>SB1544 (Rouse)</u>
Description	Regulatory relief for licensed providers	Reporting simplifications
Language	<p>1. § 1. That the Department of Behavioral Health and Developmental Services (the Department) shall review its regulations that impact providers licensed by the Department in order to identify reforms to increase efficiency, reduce redundancy, and decrease regulatory burdens on providers. This review shall include consideration of how relief from licensing requirements may be authorized for providers that are accredited by recognized national accreditation bodies. The Department shall also consider adjustments to the frequency of licensing inspections for providers with triennial licenses that have had no health or safety violations or complaints for the previous year. The Department shall collaborate with stakeholders to conduct this review and shall report its recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2023.</p>	<p>1. § 1. That the Department of Behavioral Health and Developmental Services (the Department) shall review its regulations that require providers licensed by the Department to report allegations of abuse, neglect, and exploitation and incidents classified as Level II and Level III. The Department shall collaborate with stakeholders to develop solutions to reduce administrative burdens on licensed providers. The Department shall report its recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November</p>

▪ **Office of Regulatory Management Requirements and Associated Deadlines.**

- Unified Regulatory Plan, Baseline Recount (including negative mandates), and quarterly updates on regulatory reduction efforts.

STATE HUMAN RIGHTS COMMITTEE

Julie C. Allen, Chairperson
Springfield
Wil Childers, Vice-Chairperson
Hardy
David Boehm
Marion
Monica Lucas
Richmond
Timothy Russell
Williamsburg



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June 23, 2023

Elizabeth Hilscher, Chair
State Board of Behavioral Health and Developmental Services
Post Office Box 1797
Richmond, Virginia
23218

Dear Ms. Hilscher:

On June 22, 2023, the State Human Rights Committee (SHRC) voted on recommendations for membership on the SHRC. On behalf of the committee, I respectfully request your consideration of the following appointments and re-appointment.

The SHRC recommends the appointment of Renee F. Valdez. Ms. Valdez has a Bachelor's degree in Psychology and a Master's degree in Community Counseling. She has worked in the area of behavioral health in various capacities since 1985, beginning in the field of addictions, detoxification, and counseling. She later retired from American Systems, Inc. where she was an Independent Consultant in Workforce Training and Development. She also has extensive experience working with at-risk youth, HIV/AIDS prevention, long-term care and post-secondary education. Ms. Valdez is a former member and Vice Chairperson of the Northern Virginia Regional LHRC. During her interview with the committee, she disclosed that following the sudden loss of her eyesight to a rare autoimmune disease in 2013, she became the recipient of licensed behavioral health supports and services. All things considered, Ms. Valdez is passionate about health, wholeness and advocacy. Her role as an individual with lived experience fulfills the SHRC's Virginia Code mandate to have at least two (one-third) individuals who are "receiving or who have received public or private mental health, developmental, or substance abuse treatment or habilitation services" on the committee. The SHRC respectfully requests that Ms. Valdez be appointed to serve the term of July 1, 2023, to June 30, 2026. Ms. Valdez resides in Alexandria, Virginia.

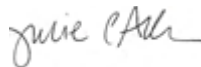
The SHRC recommends the appointment of John B. Shepherd. Mr. Shepherd has a Bachelor's degree in Religious Studies and a Master's degree in Education. Mr. Shepherd was previously employed as an Adult Protective Services worker and Medicaid Eligibility worker with the Albemarle County Department of Social Services. Mr. Shepherd has extensive

experience interpreting regulations as a Zoning Official and Board of Zoning Appeals member, and has served on the Board of Children, Youth and Family Services Inc. and the Oakland School. Mr. Shepherd is a former member and Chairperson of the Region Ten LHRC and served as a member of the Charlottesville LHRC. His role as a Professional would help to fulfill the SHRC's mandate to fill remaining appointments with other professionals who "have interest, knowledge and training in the mental health, developmental, or substance abuse services field". The SHRC respectfully requests that Mr. Shepherd be appointed to serve the term of July 1, 2023, to June 30, 2026. Mr. Shepherd resides in Charlottesville, Virginia.

The SHRC also recommends the reappointment of Will Childers. Mr. Childers was appointed to the SHRC in July of 2018 to fill a vacant term of July 1, 2017, to June 30, 2020, and appointed to his first full three-year term July 1, 2020. Mr. Childers has worked with adults with developmental disabilities, mental health and physical challenges for 35 years. He was Program Coordinator for Blue Ridge Behavioral Healthcare in Roanoke and Associate Director for Developmental Disabilities at HopeTree Family Services in Salem. Mr. Childers has coordinated residential, in-home and independent living services for adults with intellectual and developmental disabilities and was an investigator for allegations of human rights violations for 30 years, working collaboratively with human rights advocates as well as other DBHDS staff. Mr. Childers also volunteers regularly to provide care to hospice patients, advocate for children in foster-care and offers his services as a Master Gardener in his community. He is a former member of the Roanoke-Catawba LHRC, on which he served as Secretary, Vice-Chair and Acting Chair. The SHRC respectfully requests that Mr. Childers be appointed to serve a second term of July 1, 2023 to June 30, 2026. Mr. Childers resides in Hardy, Virginia.

On behalf of the State Human Rights Committee, I respectfully ask that you consider these appointments and re-appointment at your July 12, 2023, Board meeting. Applications and current SHRC roster are attached for your review. Thank you for your consideration

Respectfully submitted,



Julie C. Allen, Chair
State Human Rights Committee

c: Taneika Goldman, State Human Rights Director

MONDAY July 11, 2023 12:30 p.m.	LOCATION: DBHDS Central Office, 13th Floor Conference Room, Richmond. Lunch
1:00 – 5:00 p.m.	Biennial Planning Retreat ➤ State Board Planning: Priorities for September 2023 – June 2025 <i>Note: No formal action until Tuesday's Biennial Planning Meeting.</i>
Upon adjournment	Nominations Committee Meeting ➤ Slate of officer candidates

Wednesday, July 12, 2023
Virginia Department of Behavioral Health and Developmental Services,
Central State Hospital, Building 113, 26317 W Washington St, Petersburg, VA 23803

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

- **Planning and Budget Committee** will meet in Room 222.
- **Policy and Evaluation Committee** will meet in the Main Conference Room.

Regular Meeting Location: **Virginia Department of Behavioral Health and Developmental Services,**
Central State Hospital, Building 113, Room 222
26317 W Washington St, Petersburg, VA 23803

- **The location for the committee meetings and Regular Board Meeting is in Building 113.** When you drive on to the hospital campus, you will come to a stop sign. Turn left. Building 113 is the first building on the right and there is a sign in the front that says "Administration."

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