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COMMONWEALTH of VIRGINIA

DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

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MEETING MINUTES **REGULAR MEETING** **Wednesday, December 11, 2019** **9:30 a.m. – 2:00 p.m.**

DBHDS Central Office, 1220 Bank Street, 13th Floor Conference Room,
Richmond Virginia 23219

Members Present	Paula Mitchell, Chair ; Elizabeth Hilscher, Vice Chair; Rebecca Graser; Jerome Hughes; Moira Mazzi.
Members Present via Telecom	Djuna Osborne.
Members Absent	Jack Bruggeman; Varun Choudhary; Sandra Price-Stroble.
Staff Present	Alexis Ablasca, MD, Chief Clinical Officer Heidi Dix, Deputy Commissioner, Division of Compliance, Legislative, and Regulatory Affairs (CLRA) Tiffany Ford, Director, Office of Management Services Lisa Jobe-Shields, Assistant Commissioner, Division of Community Behavioral Health Emily Lowrie, Senior Policy Analyst, CLRA Josie Mace, Financial and Policy Analyst, Office of Budget Development, Finance Division Susan Puglisi, Regulatory Research Specialist, Office of Regulatory Affairs Ruth Anne Walker, Director of Regulatory Affairs and State Board Liaison
Guests Present	Deirdre Johnson, Director, VOCAL Virginia; Elizabeth Bouldin-Cloptin; Heather Orrock.
Call to Order and Introductions	At 9:31 a.m., Paula Mitchell, Chair, called the meeting to order and welcomed everyone. Ms. Mitchell reported that the board's thoughts were with two board members who are not able to be here as planned, Sandra Price-Stroble and Jack Bruggeman.

<p>Approval of Agenda</p>	<p><i>At 9:33 a.m. the Board voted to adopt the October 9, 2019 agenda, including an amendment requested by Ms. Mitchell to move Items A, B, and C of #13 under Miscellaneous to be before the Legislative and Budget update in order to allow the quorum to be maintained for action items before the Vice Chair had to leave at 1:30 p.m. On a motion by Jerome Hughes and a second by Moira Mazzi, the agenda with amendment was approved unanimously.</i></p>
<p>Approval of Draft Minutes</p>	<p>Regular Meeting, October 9, 2019 <i>At 9:35 a.m. on a motion from Beth Hilscher and a second by Becky Graser, the Board approved the minutes of the October 9 minutes.</i></p> <p>Ms. Mitchell requested members make note of questions during presentations until the speakers are finished and then ask questions, with the exception being if a clarifying answer is needed in order to continue to understand what is being presented.</p>
<p>Quarterly Budget Report</p>	<p>At 9:36 a.m., members reviewed the quarterly budget report.</p>
<p>Public Comment</p>	<p>At 9:43 a.m., Ms. Mitchell welcomed Ms. Deirdre Johnson, Director, VOCAL Virginia. Ms. Johnson provided perspective on the status of the Behavioral Health Redesign initiative. She stated that while she was very excited about Behavioral Health Redesign, she also had a lot of concern. Peers are supposed to be embedded in 60% of service design, but they can't be if services aren't working as intended or funded as needed. Other issues of concern are barrier crimes for peer recovery specialists (PRS), and understanding of the role of PRS versus other professional clinical services.</p> <p>A robust rate is needed, but in the Mercer presentation the week before, there was not information on the peer rate; yet a reimbursable rate of \$26/hour is unacceptable. Ms. Johnson also mentioned a DHHS case study from 2014 regarding peer services within the service array, which speaks to the General Assembly's focus on 'low hanging fruit' for cost savings as the use of peers in the system result in savings. Ms. Graser asked what an appropriate rate would be. Ms. Johnson [read from synopsis]. Discussion continued by Ms. Graser, Ms. Hilscher, and Ms. Mitchell.</p> <p>Ms. Graser asked if peer respite was discussed in the Behavioral Health Redesign meetings. Ms. Johnson stated she had requested it multiple times, but it is not yet an evidenced base practice (EBP). However, she wondered why not peer respite, if they are looking at intensive outpatient.</p> <p>Ms. Mitchell asked staff if there would be a way of keeping track of the bills and budget amendments related to Behavioral Health Redesign and peer recovery issues.</p> <p>Ms. Mitchell thanked Ms. Johnson for taking time to come to the meeting and expressed appreciation for her perspective.</p>

<p>Resolution Presentation</p>	<p>At 9:53 a.m. on behalf of the State Board, Ms. Mitchell presented a resolution of appreciation to former board liaison Will Frank for his five years of services as the commissioner’s designee as State Board Liaison in addition to serving as the Director of Legislative Affairs.</p>
<p>Annual Executive Summary</p>	<p><i>At 10:10 a.m. after review by the members, the chair approved for submission to the Governor and the General Assembly the draft annual executive summary, with one correction of the December meeting dates as noted by Ms. Hilscher.</i></p>
<p>State Human Rights Committee</p>	<p>At 10:11 a.m., Deb Lochart presented the recommendation of the State Human Rights Committee to reappoint Timothy M. Russell. <i>On a motion by Mr. Hughes and a second by Ms. Hilscher, Mr. Russell was appointed unanimously.</i></p>
<p>Commissioner’s Report</p>	<p>At 10:13 a.m., Ms. Mitchell welcomed Heidi Dix, Deputy Commissioner for Compliance, Legislative, and Regulatory Affairs (CLRA) to present the report for Acting Commissioner Mira Signer who was unable to attend as expected due to illness. Ms. Mitchell expressed regret that Ms. Signer was not present as this would have been the board’s last time seeing her as Acting Commissioner before the new commissioner starts on Monday, and the board wanted to express on behalf of the board sincere appreciation for all she handled during this interim period. Ms. Dix was asked to convey those sentiments to Ms. Signer.</p> <p>Ms. Dix presented a range of updates from the department as follows:</p> <p>Leadership changes</p> <ul style="list-style-type: none"> • New CIO Robert Hobbleman started on December 9, 2019; he comes to DBHDS after 25 years at VDSS. • Two deputies, Daniel Herr and Laura Nuss, were departing on December 13, 2019. Acting deputy commissioners have been identified as Dr. Michael Schaefer and Heather Norton, respectively. • New Commissioner Alison Land was starting on December 16, 2019. <p>DOJ / Settlement Agreement</p> <p>Four main areas of the Settlement Agreement</p> <ol style="list-style-type: none"> 1. Serving individuals with DD in the most integrated setting and building quality community-based alternatives for individuals, particularly individuals with complex needs. 2. Quality and risk management system, including monitoring and evaluating services, and implementing quality improvement processes at an individual, provider, and state-wide level. 3. Transitions from training centers/enhancement of community services. 4. Supporting independent housing and employment options for individuals with DD.

Timeline

- Per the Agreement, the Commonwealth must demonstrate compliance with all provisions no later than June 30, 2020.
- And for each provision, compliance is then maintained for a period of not less than 12 months.
- The Agreement contemplated to conclude no later than June 30, 2021.

What remains to be done

- Expand **provider capacity**.
- Improve **provider competency** in the short-term and have personnel capacity for on-going remediation needs.
- Stand up missing elements of the home and community-based services (HCBS) **quality assurance and improvement system**.
- **Manage performance** to achieve performance metrics for the Quality Assistance/Quality Improvement system.
- Establish authority and methods to collect **outcome data**.
- Procure information management tools, and capacity to store, manage, **analyze, and report data**.

In terms of meeting specific provisions, Virginia has met approximately 65% of provisions to date. Of the remaining provisions to meet:

- Section III – Integrated Settings (21 provisions).
- Section IV – Training Center Discharge Planning and Transition (on hold – 6 provisions).
- Section V – Risk Management, Quality and Improvement (26 provisions).
- Section IX – Document Library.

Where we are now:

In order to determine whether we are meeting the remaining provisions, the judge ordered the parties to determine specific indicators and then those indicators will be the basis for determining compliance. Virginia has been negotiating with DOJ, as ordered by Judge Gibney, to develop compliance indicators for the provisions of the Settlement Agreement with which the Commonwealth has not yet found to be in compliance. The compliance indicators are not a renegotiation of the agreement but rather are steps and metrics the parties agree the Commonwealth must take to reach compliance.

Judge Gibney directed the parties to file on December 9, 2019, a list of provisions that we have agreed upon. For the provisions upon which we are unable to agree, a hearing will be held on January 7, 2020, and the Court will establish compliance indicators. To date, Virginia has agreed with DOJ on compliance indicators for 30 provisions and 13 that we are still negotiating.

Ms. Hilscher asked if the Settlement Agreement dictated the elimination of the waiting list. She also commented on how at the annual budget hearings

individuals and families pleased to get on the waiver, which should be a finite funding number that could be reached. Ms. Dix responded that the Settlement Agreement has numbers of slots per year in certain categories. However, the waiting list continues to evolve and grow. The waivers were transformed with levels of priority. Also, the cost of slots has to be balanced with the cost to raise rates periodically.

Ms. Mitchell asked if the document library would be on the agency website. Ms. Dix confirmed that it would be eventually. Ms. Graser asked if additional staff would be added to create the library, to which Ms. Dix replied that there would not be additional staff.

Ms. Mitchell asked if, for those items without agreement by the parties, could the judge arbitrarily set decisions about metrics, etc. Ms. Dix responded that he could do as he deems necessary.

STEP VA

Crisis Services – Mobile Crisis

DBHDS has steadily worked with CSBs to ensure sufficient planning and funding allocation plans for the \$7.8 million in crisis services funding. Projected allocations for the distribution of the FY20 crisis funding was based on current crisis utilization rates for the five DBHDS regions. Budgets based on these projected allocations and plans were requested from the five regions. Two regions have plans that are in the final stages of approval, and three regions are in the process of revising their plans. Performance measures have been adopted. Upon DBHDS' approval of the regions' plans, funding will be disbursed.

Outpatient Services

The majority of funds (\$7.9M) were distributed on an equal basis to all CSBs. Roughly \$5M was distributed on the basis of need. A needs-based funding formula was developed based on population, outpatient FTEs, size of catchment area, treatment units provided, and overall CSB budget. CSBs were grouped into five categories ranging from low needs to very high needs; funds were distributed according to need. The five regions received \$1.5M in funding for training and capacity building.

STEP-VA Projected Activities December 2019-June 2020

- Monitor and support implementation of Same Day Access and Primary Care Screening.
- Support CSBs in installation of Outpatient and Crisis Services.
- Utilize results of Comprehensive Needs Assessment and gather additional feedback from STAC and VACSB to improve implementation process.
- Collaborate with the Executive and Legislative branches to acquire funding for STEP VA implementation, infrastructure and oversight resources at DBHDS Central Office and infrastructure at CSBs.

Ms. Mitchell mentioned the report from CSBs in October about the impact of Medicaid expansion and asked if DBHDS had identified the most needy CSBs in that regard. Ms. Dix responded that for FY19, the agency distributed \$7M to plug holes. For FY20, the amount is down such that it is basically zero, but it varies by CSB.

Hospitals

The average census for all state hospitals (excluding the Commonwealth Center for Children and Adolescents (CCCA) and maximum security at Central State Hospital) for the week of October 21, 2019, was 96%. Three hospitals were at 100% or above capacity by the end of the week to include Piedmont Geriatric Hospital (PGH) (102.4%), Eastern State Hospital (ESH) (100.3%), and CCCA (102.1%). Census increases at CCCA are particularly challenging due to the high pressure placement needs for this special population.

DBHDS continues to work with CSB emergency services, private hospitals, law enforcement and other partners to facilitate the best possible outcomes given the situation. There is ongoing work to support the facility directors and identify short- and long- term solutions.

Western State Addition

Ms Dix reported that a detailed timeline regarding Western State Hospital (WSH) and the delay in construction of 56 beds would be forwarded after the meeting (addendum: see below). Based on this timeline DBHDS is taking the following actions:

1. Procurement review of the contract, terms and agreements, and associated documents to identify missed opportunities for mitigation and dispute resolution.
2. External consultation request for DBHDS Office of Architecture and Engineering (OAE) departmental oversight and management of capital projects.
3. DBHDS review of all capital projects awarded to the identified OAE Firm.
4. DBHDS review of internal and external communication processes related to capital projects progress and outcomes.

WSH Lessons Learned

1. Maintain familiarity with the schedule as shown in the contract documents:
 - a. Document discussions on the schedule.
 - b. Clearly document reasons for changes to the schedule.
 - c. Schedule changes to be formally incorporated into the contract by change order.
2. Formalize any issues or changes by keeping a written record.
3. Any changes to the contract should be documented through a change order or formal correspondence.
4. Communicate issues that may impact project delivery, budget to the

appropriate agency and facility personnel, as well as to leadership and above. Include steps taken to remediate the problem/issue.

	2016 Planning Schedule	Actual Schedule	Comments
Award A/E Contract	1/26/2017	4/13/2017	<ol style="list-style-type: none"> The 2016 planning schedule was based on two assumptions: <ul style="list-style-type: none"> The existing patient wings could be replicated without the submission of new calculations and existing waivers would cover the new work. A single submission to DEB for each phase of the design would be sufficient, subject to the current code. Once DGS clarified expectations with the A/E Firm in April 2017, the planning schedule was rendered invalid.
DEB Approval of Schematic Drawings	4/27/2017	8/03/2017	Schematic Drawings were submitted within reasonable timeframe given the April 2017 A/E Contract award.
DEB Approval of Preliminary Drawings	8/3/2017	7/10/2018	<ol style="list-style-type: none"> Preliminary Drawings were submitted multiple times for DEB review to accommodate requests for new calculations related to occupancy load, mechanical and physical plant systems, as well as waivers and cost estimates by owner. DBHDS requested a new A/E Firm Project Manager due to timeliness and submission concerns.
DEB Approval of Working Drawings	2/9/2018	10/15/2019	<p>Working Drawings required additional effort including but not limited to:</p> <ol style="list-style-type: none"> Evaluation of cooling system and design of new cooling tower (7mos); Design and approval of additional parking (2mos); Submission of waivers and engineering judgements for fire alarm system, locking assemblies, etc... (5 mos).
Bid and Award Construction Contract (30 days)	3/23/2018	12/15/2019	DBHDS was given authority to solicit construction bids. Documents were distributed to five (5) pre-qualified bidders for pricing. Bids were on November 13, 2019. They are currently under evaluation.
Construction Complete	4/29/2020	4/30/2021	Based on a 437 day construction period, it is anticipated that the project will obtain substantial completion mid-April, 2021. Final completion is to be achieved 30 days later.

Ms. Hilscher stated that the code change during that time made it difficult. She expressed sadness at the loss of time. Ms. Dix stated that there was one, then one right about the time of the approval, which made it really messy for a very step-wise process.

Individual and Family Support Program (IFSP) Data Breach

The IFSP Funding Program provides financial assistance to individuals and families awaiting services through one of Virginia's Developmental Disabilities waivers. Individuals on the waitlist may apply for financial assistance to cover eligible costs that support continued living in an independent setting.

- On October 1, 2019, personal information of some applicants for Individual and Family Support Program (IFSP) funding may have been seen by other applicants through the IFSP Funding Portal. Personal information of some applicants may have been visible to other applicants who were logged into the IFSP Funding Portal. The personal information that was visible to other applicants includes name, mailing address, email address, phone number, date of birth, or the last four digits of a social security number; full social security numbers, driver's license numbers, credit card numbers, health diagnoses, insurance information, and banking information were not visible to other applicants at any time.
- DBHDS discovered the breach within 16 minutes after the IFSP Funding Portal was opened to receive applications and immediately took the Portal offline. A number of steps have been taken to investigate this breach and prevent any potential harm to applicants. In addition to taking the IFSP website offline, DBHDS technical staff and the Virginia Information Technologies Agency have examined incident data to determine the cause of the data breach and correct identified issues and are implementing measures to restore the IFSP Portal to a secure, operational state.
- DBHDS has contacted all impacted individuals and provided additional information via postal mail.
- There were 1,439 total letters offering all affected individuals free credit monitoring services for up to two years.
- In addition, numerous updates were posted on the IFSP listserv to update all applicants on the situation and instruct on what steps applicants should take to continue the process of applying for IFSP funds.

Ms. Mitchell state that with all the leadership changes it might be helpful when everything had settled in to get a current organizational chart for the department. Ms. Dix mentioned there was also an organizational report to the General Assembly coming soon that could be provided.

Ms. Mitchell also inquired about the website as given the tasks the department has, to work around the issues with the website is an additional challenge. Ms. Dix concurred that it had been two years and needs to be fixed; efforts were underway to begin in the near future.

Ms. Mitchell thanked Ms. Dix for her time and stated the board really appreciated the presentation.

Regulatory Actions

A. Authorization of Request for Emergency Extension (12VAC35-105):

<p>and Updates</p>	<p>Compliance with Virginia’s Settlement Agreement with US DOJ Ms. Mitchell asked for a motion to authorize the request to the Governor to extend the emergency regulation while the standard process is completed as the action for permanent adoption just finished the proposed stage 60-day public comment period and will not be completed in time (this is not unusual).</p> <p><i>On a motion by Ms. Hilscher and a second by Ms. Mazzi, the request was authorized.</i></p> <p>B. Status Report on Families First Ms. Mitchell recalled to members that the Office of Licensing provided information previously on the changes coming as a result of the federal Family First Prevention Services Act (particularly in section Title IV–E) to begin certifying Children's Residential Facilities as Qualified Residential Treatment Programs (or, QRTPs). So with us again today is Emily Bowles, Assistant Director for Licensing, Quality, Regulatory Compliance, and Training.</p> <p>C. General Update – Regulatory Matrix Ms. Walker reviewed the regulatory matrix and the workplan handout.</p>
<p>Performance Contract and Other OMS Updates</p>	<p>At 11:19 a.m., Ms. Mitchell welcomed Tiffany Ford, Director, Office of Management Services.</p> <p>Ms. Ford provided two handouts and gave an update on the recent reformation of the office and on the performance contract structure and process.</p> <p>Ms. Mitchell asked Ms. Ford to give an example of how a project starts. Ms. Ford used the example of a federal grant. Her staff thinks of how the funds might be better utilized, they meet with the lead staff and find out what the lead office needs. Ms. Walker stated that the office provides a service that is much need to ‘connects the dots’ and does excellent work.</p> <p>Regarding the performance contract, it is a working document based on a relationship with the community services boards.</p> <p>Ms. Hilscher was grateful for the performance contract document for use when the Policy and Evaluation Committee reviews the related policy.</p> <p>Ms. Mitchell thanked Ms. Ford behalf of the Board for being willing to put off the presentation from October to December to allow time for both Western and CCCA’s presentations and tours.</p>
<p>Committee Reports 1:35</p>	<p>A. Planning and Budget Committee Ms. Walker reported on the activity of the committee meeting that consisted of a review of the committee’s role and receiving updates on standing items including:</p>

- Josie Mace, Financial and Policy Analyst, Office of Budget Development gave an overview of the state board budget including a hard copy (given to the full board) chart of the board budget with a breakdown of the FY 2019 and FY 2020 budget and expenditures.
- Meghan McGuire, Senior Advisor for External Affairs, reported on the status of DBHDS strategic planning efforts. Ms. Mitchell asked members to consider the role of the Grant Review Committee if interested, and staff will vet the conflict of interest questions raised by Mr. Hughes and Ms. Graser.

Ms. Walker alerted members that the board’s bylaws were due for review and that the bylaws require 30 day notice of amendments; therefore, members should expect a draft to come in advance of the remainder of the meeting packet.

B. Policy and Evaluation Committee

Ms. Hilscher reported that the committee had gotten behind on the policy reviews, but in consultation with Emily Lowrie, agreed on an updated schedule to push ahead quickly while maintaining due diligence. She reported the committee voted on the following revised policy drafts to come to the board at the December meeting:

- 1028(SYS) 90-1, Human Resources Development
- 1035(SYS) 05-2, Community Services Board Single Point of Entry and Case Management Services
- 1016(SYS) 86-23, Policy Goal of the Commonwealth for a Comprehensive, Community-Based System of Services.

The committee heard presentations and received suggested edits from lead offices on the following policies, and voted to put the policies out for field review:

- 2011 (ADM) 88-3 (Changing the Names of State Facilities).
- 3000 (CO) 07-1 (Appointments to Community Services Boards).
- 1042 (SYS) 07-1 (Primary Health Care).

There was some discussion about how the committee might meet more frequently than quarterly. Ms. Dix stated the committee also discussed that STEP-VA is a mandate in the Code of Virginia and staff needed to discuss internally whether or not there should be a policy.

Update on the Virginia Association of Community Services Boards (VACSB)

At 2:05, Jennifer Faison provided an update on activities of the association and the status of the CSBs on specific issues. Ms. Faison covered some things the board heard about from Ms. Signer but with a CSB perspective. She distributed a public policy brochure to members that included budget priorities that are centered on these five things.

Impact of Medicaid Expansion: Ms. Faison stated that the CSBs remained silent on expansion, though they believe it is the right thing to do. The result was there was a 25M reduction to the state General Fund. A priority for the

General Assembly Session will be to restore ongoing General Fund dollars. She reported that revenue is complicated because behavioral health is carved into managed care, so there are six organizations to deal with. There are a ton of outstanding accounts receivable; but, VACSB is embarking on a learning collaborative with those CSBs who have been better at getting paid.

STEP-VA: Ms. Faison stated the association will be asking for the remainder of the outpatient funding.

Settlement Agreement: The agreement has helped to focus on measures needed in the system, though CSBs would have preferred not to have over 200 measures. VACSB is very engaged with the department and DMAS to meet the deadline for exiting the agreement.

Census Reduction Efforts: STEP-VA and mobile crisis are not the only answer to the census problem. The extraordinary barriers and discharge planning are where CSBs can influence bed days. CSBs take this seriously.

Overarching Issue of Workforce: This is critical because Virginia can develop the best programs, facilities, etc., but can't do a thing if CSBs can't hire the folks to do the work. Virginia is in a crisis. The direct service professionals on the DD side, are so essential to supporting the settlement agreement, and the hospitals. There are some creative solutions, including an idea for a project two years ago for a student loan repayment program for behavioral health that was only 2M. It didn't move forward but the Virginia Department of Health (VDH) did a thorough report (what type of provider, how long, tiered approach, open to state hospitals). VACSB would like to dust that off and set some expectations also around equity and underserved areas, with double the original amount. Also, a couple years ago there was a concept for a modest rate increase of about 14% across the system, but that rebase was using 2013 data. It is time to revisit with fresh data.

Ms. Walker asked what the turnover has been of executive directors in recent years. Ms. Faison reported that in the last seven years, there has been a 70% turnover, and the tenure has collectively shrunk. Almost more than 50% of directors are women. Continuity is a big issue.

Miscellaneous

A. Board Liaison Reports

At 2:40 Ms. Mitchell reminded members that the board agreed it wants to go to written reports that are then provided in hard copy at the meeting. The reports need to be received in time for staff to compile and print. Ms. Hilscher and Ms. Price-Stroble commented on their submitted reports.

Ms. Mitchell requested that members send their preference for liaison assignments to Ruth Anne and she would attempt to recalculate the assignments now that all member slots were filled.

	<p>B. Quarterly Budget Report The handout from Ms. Mace was provided to the board.</p>
Bylaws	<p>Ms. Mitchell turned the members attention to the bylaws revisions needed due to a change in the Freedom of Information Act, explaining that the bylaws require review every four years or when there is a code change. <i>On a motion by Ms. Mazzi and a second by Ms. Hilscher, the amendments were approved.</i></p>
Other Business	<p>There was no other business.</p>
Adjournment	<p>The meeting was adjourned at 2:50 p.m.</p>

**NEXT MEETING: The next meeting of the State Board will be on
Wednesday, December 11, 2019, at the
DBHDS Central Office, 1220 Bank Street, Richmond,**