

**2009 ANNUAL EXECUTIVE SUMMARY
of the Activity and Work of the**

**STATE BOARD of
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES**



TO THE GOVERNOR AND GENERAL ASSEMBLY

JANUARY 1, 2010

STATE BOARD OF BEHAVIORAL
HEALTH AND DEVELOPMENTAL
SERVICES

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HENRICO
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NORFOLK
JENNIFER M. LITTLE
COBBS CREEK
ANANDA K. PANDURANGI, M.D.
RICHMOND
VACANCY
FAMILY MEMBER



OFFICE OF THE BOARD
1220 BANK STREET
RICHMOND, VA. 23219

P.O. BOX 1797
RICHMOND, VA 23218-1797

TELEPHONE: (804) 786-7945
FAX (804) 371-2308

COMMONWEALTH of VIRGINIA
DEPARTMENT OF
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

January 1, 2010

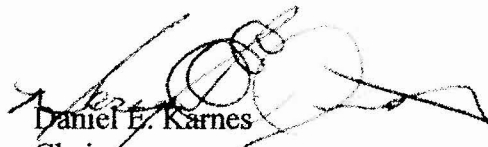
To the Honorable Timothy M. Kaine, Governor of Virginia
and
Members, General Assembly of Virginia

I am pleased to forward to you the Annual Executive Summary of the Activity and Work of the State Board of Behavioral Health and Developmental Services for 2009.

The report describes the statutory basis for the Board's work and provides information concerning the Board's policy, regulatory and committee work during the preceding 12 months as well as outlining the Board's policy priorities for the coming year.

The commitment of time and talent from our Board members is served and enhanced by the dedicated leadership and staff at DBHDS. As we move forward in the transformation of our services system we will continue to address the challenges and improve the systems that impact our Commonwealth's most vulnerable citizens.

Sincerely,


Daniel E. Karnes
Chair

Enc.

Cc: The Hon. Marilyn B. Tavenner
James S. Reinhard, M.D.

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INTRODUCTION

Board Membership

The State Board of Behavioral Health and Developmental Services is established by § 37.2-200 of the Code of Virginia as a policy board in the executive branch of Virginia government. Citizen board members are appointed by the Governor, subject to confirmation by the General Assembly. Terms are for four years each, except appointments to fill vacancies. Members may be reappointed; however, no member may serve more than two full four-year terms. The Board is authorized to employ a board secretary who is selected by the full Board.

The Board is statutorily required to meet at least quarterly in any calendar year. The Board scheduled five meetings in 2009 to effectively address policy, regulatory, and systems change issues. In order to save on travel expenses, meetings were held closer to Richmond as follows:

January 13, Richmond
April 7, Petersburg
June 2, Ashland
September 14-15, Richmond (includes Annual Planning Retreat)
December 8, Richmond

Board membership consists of nine non-legislative citizen members. The Board is required to have consumer and family members, one elected local government official, one psychiatrist licensed to practice in Virginia, and four citizens at large. The current membership* of the Board meets the statutory criteria and is constituted as follows:

Daniel E. Karnes*, Roanoke, Vice-Chair;
Andrew Goddard, Henrico;
Cheryl Ivey Green*, Richmond;
Robert Hendrickson, Radford;
Catherine M. Hudgins, Reston;
Ruth G. Jarvis*, Norfolk;
Jennifer M. Little, Cobbs Creek; and
Ananda K. Pandurangi, Richmond.

The current Board membership is of individuals who have been appointed since June 2004, with the last appointments in August 2009. Members currently serving their second terms of office are noted with an asterisk '*.' (Note: One appointment in August resigned in November due to the time commitment.)

Review of Statutory Authority

State Board of Behavioral Health and Developmental Services (§ 37.2-200).

- A. The State Board of Behavioral Health and Developmental Services is established as a **policy board** ...in the executive branch of government.
- D. ...The Board shall **meet quarterly** and at such other times as it deems proper. ...The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request....
- E. The chairman of the Board shall submit to the Governor and the General Assembly an **annual executive summary** of the activity and work of the Board no later than the first day of each regular session of the General Assembly.

Classification of executive branch boards, commissions and councils (§2.2-2100).

"Policy" - A board, commission or council shall be classified as policy if it is **specifically charged by statute to promulgate public policies or regulations**. It may also be charged with adjudicating violations of those policies or regulations. Specific functions of the board, commission or council may include, but are not limited to, rate setting, distributing federal funds, and adjudicating regulatory or statutory violations, but **each power shall be enumerated by law**. Policy boards, commissions or councils are **not responsible for supervising agencies or employing personnel**. They **may review and comment on agency budget requests**.

Powers and duties of Board (§ 37.2-203)

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;
2. To ensure the development of long-range programs and plans for mental health, mental retardation, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;
3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;
4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;
5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, mental retardation, and substance abuse;
6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;
7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;
8. To ensure that the Department assumes the responsibility for providing for education and training of school-age consumers in state facilities, pursuant to § 37.2-312; and
9. To change the names of state facilities.

Additional Responsibilities (State Board of BHDS Bylaws Article 6 – Powers and duties of the Board)

The Board shall appoint members of the **State Human Rights Committee** pursuant to §37.2-204 of the Code of Virginia, and the Prevention Promotion Advisory Council according to their respective bylaws. The Board **may appoint other advisory councils or committees**, as it deems necessary or appropriate.

FY 2009 ACCOMPLISHMENTS

The Board utilizes a framework of five areas of statutory responsibility as an organizational structure for planning.

**Area of Responsibility-A: Policy Development and Monitoring
(Powers & Duties 1 & 4)**

These duties are addressed by the Board's Policy Development and Evaluation Committee. Beginning in January 2005, the Board began implementing a comprehensive review for existing policies of its oldest policies that had not been routinely reviewed or updated in many years. This process is now nearly complete, and the cycle can begin again. See the list of Current State Board Policies with the last review date attached as Appendix A.

In FY 2009 the Board reviewed and acted upon the following polices:

- 1023(SYS) 86-2 Services Accessibility for Cultural and Ethnic Minorities
- 1025(SYS)86-3 Services Accessibility for Persons with Physical or Sensory Disabilities
- 1021(SYS)87-9 Core Services
- 4010(CSB)83-6 Local Match Requirements for Community Services Boards
- 4018(CSB)86-9 Community Services Board Performance Contracts

Pending for the December 2009 Meeting:

- Policy 1007 (SYS) 86-2 Mental Health, Mental Retardation and Substance Abuse Services for Children/Adolescents and Their Families This policy was on schedule for final adoption at September meeting, as the routine review was initiated in April 2009 along with Policy 4026 (CSB)87-1, Transitional Services for Adolescents and Young Adults with Mental Disabilities was combined into a revised Policy 1007.
- Policy 4037(CSB)91-2 Early Intervention Program for Infants and Toddlers with Disabilities and Their Families
- Policy 4038(CSB)94-1 Comprehensive Services Act for At-Risk Youth and Families

Policy actions planned for upcoming review are:

- Rescind Policy 4023(CSB)86-24, Residential Services and use parts of it that deal with housing as a basis for developing a new policy on housing (rather than residential services).

- Rescind Policy 5010(FAC)00-1, State Facility Uniform Clinical and Operational Policies and Procedures and use parts of this to address standard state facility operations in a new policy that the Board may develop on Performance Expectations.
- Retain Policy 6001(FIN)86-1, Process and Timetable for Board/Department Interaction in Budget Preparation and Submission but revise it to reflect the Board's role in providing input to the Department in the formulation of the Department's budget requests.

**Area of Responsibility-B: Ensure the Development of Programs and Plans
(Powers & Duties 2)**

State Board Policy 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* states that the Board will: ensure the Comprehensive State Plan reflects the Board's programmatic and fiscal policies; participate in the identification of the services and support needs, critical issues, strategic responses and resource requirements included in the Plan; conduct a series of public hearings to obtain comments on the draft Plan and encourage public participation in these hearings; review the comments from the public hearings and make suggestions to the Commissioner for incorporation in the final Plan; ensure the services and support needs, critical issues, strategic responses and resource requirements included in the Plan are reflected in the Department's budget proposals and operational priorities; and monitor the implementation of goals and major initiatives contained in the Plan and identify areas where further policy and plans for program development are needed.

These duties are addressed by the Board's Planning and Budget Committee. The 2008-2014 Comprehensive State Plan was published on December 6, 2007. A public hearing via a video conference connection on the 2010-2016 State Plan was held on November 17th at four locations (NVTC, SVTC, ESH, & SWVMHI). The Plan was finalized and endorsed by the Board at the December meeting.

**Area of Responsibility-C: Review and Comment on All Budgets and Requests
(Powers & Duties 3)**

The Board Bylaws (*Article 7 – Committees, A.1.b. Planning and Budget Committee Powers and Duties*) states that the Planning and Budget Committee shall ensure development and Board review of long-range plans and budgets. In addition, in 2007 the Board created a new committee, the Grant Review Committee, specifically to review requests for federal grant funds. Two Board members serve on this committee. At the September 2009 meeting, staff updated the Board on the internal mechanisms and process established for grant review.

Area of Responsibility-D: Adopt Regulations (Powers & Duties 6)

These duties are addressed by the full Board. See the list of regulatory actions in Appendix B Status and Pending Action on Board Regulations.

**Area of Responsibility-E: Communication, Coordination and Collaboration
(Powers & Duties 5,7,8,9 & Art.6 b)**

These duties are addressed by the entire Board. Within the BHDS system, members of the Board conducted meetings in different localities, served as liaisons to regions, and maintained and improved communication from the Department staff to the Board. The Board also received information to address and fulfill its duties and responsibilities, continued revision of current policies, and established additional, internal mechanisms to ensure appropriate levels of engagement and information are in place for all areas of Board responsibility.

Within the Executive Branch of state government, Board members participated on the System Leadership Council and continued discussion of strategies to promote inter-board communication with other boards under both the Health and Human Resources and Public Safety secretariats. Three Board members made visits to key legislators during the 2009 Session of the General Assembly, and two members met with the Deputy Chief of Staff and Secretary of Health and Human Resources in October.

Board members maintained contact with and informed their respective legislators and local governments and across branches of state government. Additionally, Catherine Hudgins is a member of and participates in the Supreme Court of Virginia's Commission on Mental Health Law Reform.

No public hearings were held this year on regulations, although the Board has indicated its intent to conduct public hearings on the proposed amended Licensing Regulations 12 VAC 35-105-10 et seq. as soon as they are approved for public comment by the Executive Branch.

SUMMARY AND NEXT STEPS

The Board anticipates approval to proceed with amending the Adult Service Provider Licensing Regulations in 2010. The Board will continue to work with staff and other interested individuals to identify relevant issues that it should address in policy in the future, in conjunction with ongoing review of all existing policies on a scheduled basis. The Board's process for routine policy development and review is established in its policy 2010(ADM)88-2, Policy Development and Evaluation.

The Board applauds the efforts of Governor Kaine, the General Assembly and DBHDS staff in the midst of the unprecedented budget crisis to minimize impacts on direct services to individuals with behavioral health disorders or developmental disabilities.

Appendix A: List of Current State Board Policies (December 2009)

CURRENT STATE BOARD POLICIES*

<u>Policy Number</u>	<u>Policy Name</u>	<u>Date</u>
#1000 (SYS) --- SYSTEM MISSION AND DIRECTION		
1004(SYS)83-7	Prevention Services	4/2/07
1007(SYS)86-2	Behavioral Health and Developmental Services for Children and Adolescents and Their Families (Adoption expected December 2009; incorporating 4026)	7/28/03 12/8/09
1008(SYS)86-3	Provision of Services for Older Adults with Mental Illness, Mental Retardation, or Substance Use Disorders	10/5/06
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	4/3/07
1015(SYS)86-22	Services for Individuals with Co-occurring Disorders	4/7/09
1016(SYS)86-23	Policy Goal of the Commonwealth for a Comprehensive, Community-Based System of Services	9/7/05
1021(SYS)87-9	Core Services	12/2/08
1023(SYS)89-1	Workforce Cultural and Linguistic Competency	6/3/08
1028(SYS)90-1	Human Resource Development	1/28/04
1029(SYS)90-3	Definitions of Serious Mental Illness, Serious Emotional Disturbance, and At-Risk of Serious Emotional Disturbance	4/13/05
1030(SYS)90-3	Consistent Collection and Utilization of Data in State Facilities and Community Services Boards	9/7/05
1034(SYS)05-1	Partnership Agreement	9/7/05
1035(SYS)05-2	Single Point of Entry and Case Management Services	9/7/05
1036(SYS)05-3	Vision Statement	9/7/05
1037(SYS)05-4	Individual Consumer Information and the Community Consumer Submission	9/7/05
1038(SYS)06-1	The Safety Net of Public Services	4/7/06
1039(SYS)06-2	Availability of Minimum Core Services	4/7/06
1040(SYS)06-3	Consumer and Family Member Involvement and Participation	4/7/06
1041(SYS)06-4	Services for Individuals with Mental Illnesses, Mental Retardation, or Substance Use Disorders Who are at Imminent Risk of Becoming Involved with the Criminal Justice System	12/8/06
1042(SYS)07-1	Primary Health Care	12/6/07
1043(SYS)08-1	Disaster and Terrorism Preparedness	6/3/08

#2000 (ADM ST BD) --- ADMINISTRATION		
2010(ADM)88-2	Policy Development and Evaluation	4/7/06
2011(ADM)88-3	Naming of Buildings, Rooms and Other Areas at State Facilities	10/29/03
#3000 (C O) --- CENTRAL OFFICE		
3000(CO)74-10	Department Employee Appointments to Community Services Boards	10/29/03
3002(CO)86-16	System-wide Staff Training	4/22/04
#4000 (CSB) --- COMMUNITY SERVICES BOARDS/COMMUNITY PROGRAMS		
4010(CSB)83-6	Local Match Requirements for Community Services Boards	10/7/08
4018(CSB)86-9	Community Services Board Performance Contracts	10/7/08
4023(CSB)86-24	Residential Services (Expect to Initiate Review December 2009 into ⇒NEW Housing policy)	9/28/94
4026(CSB)87-1	Transitional Services for Adolescents and Young Adults with Mental Disabilities (In review; combining into 1007)	10/6/97
4037(CSB)91-2	Early Intervention Services for Infants and Toddlers with Disabilities and Their Families (Adoption expected December 8, 2009)	6/30/93 12/8/09
4038(CSB)94-1	Department and CSB Roles in Providing Services to Children Under the Comprehensive Services Act for At-Risk Youth and Families (Adoption expected December 8, 2009)	4/27/94 12/8/09
#5000 (FAC) --- STATE MENTAL HEALTH AND MENTAL RETARDATION FACILITIES		
5006(FAC)86-29	Razing of Dilapidated Buildings	1/29/04
5008(FAC)87-12	Accreditation/Certification	1/29/04
5010(FAC)00-1	State Facility Uniform Clinical and Operational Policies and Procedures (Expect to Initiate Review December 2009)	5/19/00
#6000 (FIN) --- FINANCIAL MANAGEMENT		
6001(FIN)86-1	Process and Timetable for Board/Department Interaction in Budget Preparation and Submission (Expect to Initiate Review December 2009)	10/28/92
6002(FIN)86-14	Services Availability and Ability of Client to Pay Philosophy (Expect to Initiate Review December 2010)	4/28/95
6005(FIN)94-2	Retention of Unspent State Funds by Community Services Boards (Expect to Initiate Review December 2010)	7/27/94
#7000 (FIN) --- INTERAGENCY RELATIONSHIPS		
7000(INTER)85-4	Department/University and College Relationships	4/22/04

***Expect to Initiate in June 2010:**

- Create a new policy on Autism/Developmental Disability Services.
- Develop a new policy, in conjunction with possibly combining with elements of existing policy, on Workforce Development.

Appendix B: Status and Pending Action on Board Regulations (December 2009)

STATUS AND PENDING ACTION ON BOARD REGULATIONS

VAC Number	Title	Action Summary	Regulations in Process		Actions Since September 2009 Board Meeting
			Stage	Time Frame	
12 VAC 35-12	<u>PUBLIC PARTICIPATION GUIDELINES</u>	Changes allowing the Department to adopt regulations effective October 15, 2009 <ul style="list-style-type: none"> ■ Next periodic review October 2013 		Completed	
12 VAC 35-45 and 12 VAC 35-46 (replacement)	<u>LICENSING REGS--CHILDREN'S RESIDENTIAL SERVICES</u> Regulations for Providers of Mental Health, Mental Retardation and Substance Abuse Residential Services for Children	Effective August 6, 2009 <ul style="list-style-type: none"> ■ Next periodic review August 2013 		Completed	
12 VAC 35-105	<u>LICENSING REGS--ADULT SERVICE PROVIDERS</u> Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation, Substance Abuse, the Individual and Family Disabilities Support Waiver, and Brain Injury Services	Effective September 19, 2002 <ul style="list-style-type: none"> ■ Amendment for IFDDS Waiver services effective September 19, 2003 ■ Amendment for brain injury services effective February 22, 2007 ■ Amendment for opioid services effective July 10, 2007 ■ Amendment for order of summary suspension effective February 20, 2008 ■ Periodic review completed February 2007 	<ul style="list-style-type: none"> ■ <u>Proposed</u> 	<ul style="list-style-type: none"> ■ Submitted for Executive Branch Review in November 2008 ■ <u>Governor's review pending</u> 	No new action
12 VAC 35-115	<u>HUMAN RIGHTS REGS</u> Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services	Final revised regulations effective on September 19, 2007 <ul style="list-style-type: none"> ■ <u>Amendment required per 2009 legislation.</u> ■ Next periodic review due September 2011 	<ul style="list-style-type: none"> ■ <u>Proposed</u> 		<ul style="list-style-type: none"> ■ NOIRA comment period ended September 30, 2009 ■ Submitted for Executive Branch Review in October 2009

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VAC Number	Title	Action Summary	Regulations in Process		Actions Since September 2009 Board Meeting
			Stage	Time Frame	
12 VAC 35-180	<u>HUMAN RESEARCH REGS</u> Regulations to Assure the Protection of Participants in Human Research	Amended effective February 11, 2004. <ul style="list-style-type: none"> ■ Periodic review completed February 2008 ■ Submitted for Executive Branch Review in June 2009 ■ Fast track approved ■ Next periodic review November 2013 	■ <u>Fast track</u>	■ Proposed effective date November 12, 2009	■ Published in Virginia Register on September 28, 2009
12 VAC 35-190	<u>MR VOLUNTARY ADMISSION REGS</u> Regulations Establishing Procedures for Voluntarily Admitting Persons Who are Mentally Retarded to State Mental Retardation Facilities	Amended effective August 19, 2009 <ul style="list-style-type: none"> ■ Amended regulations adopted by the Board for final promulgation on April 7, 2009. ■ Next periodic review August 2013 		Completed	
12 VAC 35-200	<u>MR Respite Care Admission Regs</u> Regulations for Respite and Emergency Care Admissions to Mental Retardation Facilities	Amended effective September 16, 2009 <ul style="list-style-type: none"> ■ Amended regulations adopted by the Board for final promulgation on December 2, 2008 ■ Next periodic review September 2013 		Completed	
12 VAC 35-210	<u>TEMPORARY LEAVE REGS</u> Regulations to Govern Temporary Leave From State Mental Health and Mental Retardation Facilities	New regulation effective on July 25, 2007. <ul style="list-style-type: none"> ■ Next periodic review July 2011 		Completed	

Appendix B: Status and Pending Action on Board Regulations (December 2009)

STATUS AND PENDING ACTION ON BOARD REGULATIONS

VAC Number	Title	Action Summary	Regulations in Process		Actions Since September 2009 Board Meeting
			Stage	Time Frame	
12 VAC 35-220	<p><u>PART C REGULATIONS</u></p> <p>Certification Requirements for Early Intervention Professionals and Early Intervention Specialists</p>	<p>New regulations in development to comply with Chapter 781 of the 2009 Virginia Acts of Assembly.</p> <ul style="list-style-type: none"> ■ Submitted for Executive Branch review in June 2009 <p>Emergency regulations effective 11/3/09 until 11/2/10</p> <p>(The Department rather than the Board has the statutory authority to adopt these regulations.)</p>	<ul style="list-style-type: none"> ■ <u>Emergency/NOIRA</u> 	<p>NOIRA comment period will end 12/23/09</p>	<ul style="list-style-type: none"> ■ Emergency regulations published in Virginia Register on November 23, 2009 ■ NOIRA published in Virginia Register on November 23, 2009