

2019 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, 2020

STATE BOARD OF
BEHAVIORAL HEALTH AND
DEVELOPMENTAL SERVICES

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January 1, 2020

To the Honorable Ralph R. Northam, Governor of Virginia
and
Members, General Assembly of Virginia,

I am writing on behalf of the State Board of Behavioral Health and Developmental Services to the Annual Executive Summary submitted in accordance with subsection E of § 37.2-200 of the *Code of Virginia*. The report describes the statutory basis for the Board, provides information concerning the activity of the Board during the preceding year, and outlines the Board's policy priorities for the coming year.

In 2019, the Board held its meetings in Fairfax, Richmond, and Staunton. During these meetings, the Board heard reports from DBHDS Commissioner Dr. Hughes Melton and presentations on the System Transformation, Excellence and Performance (STEP-VA) model to transform Virginia's mental health services, the US Department of Justice Settlement Agreement, Crisis Intervention Training (CIT), and collaborative state actions to fight the opioid crisis.

At its July biennial planning retreat and regular meeting, the Board was pleased to receive a detailed update from DBHDS leadership on the progress of the department's strategic initiatives included in the forthcoming strategic plan. The members of the Board endorsed as its own priorities for the biennium the key initiatives and implementation plans developed through that recent planning process. In particular, the members are interested in support for:

1. Utilization of Crisis Intervention Treatment and Assessment Sites (CITACs) for detoxification and 23 hour crisis stabilization to assist in alleviating the current capacity pressures on state hospitals.
2. Continued work toward elimination of the Priority 1 Waitlist, but also strongly consider refresh of waiver rates (with regional variation addressed) to address increasing pressures to recruit and retain qualified professionals to provide waiver services.
3. Elimination of the gap uninsured Virginians experience, even after Medicaid expansion, and continued focus on the need for resources like STEP-VA to support the un- and under-insured.

The Board hopes that behavioral health and developmental services priorities remain in the forefront of all issues brought before the 2020 Session of the General Assembly.

Sincerely,

A handwritten signature in cursive script that reads 'Paula Mitchell'.

Paula N. Mitchell, Chair

Cc: The Honorable Daniel Carey, M.D.
Members, State Board of Behavioral Health and Developmental Services
Vanessa Walker Harris, M.D.
Alison G. Land
Heidi R. Dix

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Information about the Board can be found at this link:
<http://www.dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS>

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 as defined in § 2.2-2100. Citizen board members are appointed by the Governor and 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 held five meetings in 2019 to effectively address policy, regulatory, and systems change issues as follows:

- February 25, Richmond
- April 9-10, Fairfax County
- July 17, Richmond City
- October 8-9, Staunton
- December 11, Richmond City

Board membership consists of nine non-legislative citizen members. The Board is required to have individuals receiving services and family members, one local elected 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:

Current Membership:

- Paula N. Mitchell, Roanoke, Chair;
- Elizabeth Hilscher, Richmond City, Vice-Chair;
- Jack Bruggeman, Fairfax County;
- Dr. Varun Choudhary MD, MA, DFAPA, Henrico;
- Rebecca Graser, Richmond County;
- Jerome Hughes, Prince William;
- Moira Mazzi, Fairfax County;
- The Hon. Djuna Osborne, Roanoke City; and
- Sandra Price-Stroble, Harrisonburg.

Members who rotated off in 2019:

- Calendria Jones, Richmond City.

The current Board membership consists of individuals who have been appointed as early as 2012, with the most recent appointment made in October 2019.

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 the 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, developmental, 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, developmental, and substance abuse services;
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 individuals receiving services in state facilities, pursuant to § 37.2-312;
9. To change the names of state facilities; and
10. To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling.

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. The Board may appoint other advisory councils or committees, as it deems necessary or appropriate.

2019 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 through the State Board Policy 2010 (ADM ST BD) 88-2 *Policy Development and Evaluation*. All Board policies are accessible online (<http://www.dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS/bhds-policies>). See the list of current State Board policies with the last review date attached as Appendix A.

In 2019, the Policy and Evaluation Committee sent out the following policies for public comment. These policies will be acted on in 2020.

- Policy 1028 (SYS) 90-1 Human Resource Development
- Policy 2011 (ADM ST BD) 88-3 Naming of Buildings, Rooms and Other Areas at State Facilities
- Policy 3000 (CO) 74-10 Department Employee Appointments to Community Services Board
- Policy 6005 (FIN) 94-2 Retention of Unspent State Funds by Community Services Boards
- Policy 4010 (CSB) 83-6 Local Matching Requirements for Community Services Boards
- Policy 1042 (SYS) 07-1 Primary Health Care

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

In accordance with § 37.2-315 of the *Code of Virginia*, the Department produces and biennially updates a comprehensive six year plan that identifies services and supports needs of individuals with mental health or substance use disorders or developmental disabilities; proposes strategies to meet those needs; and defines resource requirements for behavioral health and developmental services. The Department is currently involved in developing a long term strategic plan. State Board members received an update on the development of this plan in July. In October, the Planning and Budget Committee received further detail on the development of the plan, and the Acting Commissioner presented on the plan in the full Board meeting.

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

The Board Bylaws (*Article 7 – Committees, A.2.b. Planning and Budget Committee Powers and Duties*) states that the Planning and Budget Review Committee shall ensure development of long-range plans and budgets. The Board heard from agency staff and Acting Commissioner Signer about agency budget submissions at its December meeting. The Board sent a letter to the Governor earlier in the year expressing their priorities which are also included in the cover letter to this report.

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 full Board. Within the DBHDS system, members of the Board attend meetings in different localities and serve as liaisons to regions. The Board received information on its stated priorities. In order to address and fulfill its duties and responsibilities, the Board continued revision of current policies, and maintained internal mechanisms to ensure appropriate levels of engagement and information were in place for all areas of Board responsibility.

New assignments of liaison areas were reviewed as new board members were appointed. The Board also appointed membership to the State Human Rights Committee (SHRC).

SUMMARY AND NEXT STEPS

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.

Appendix A: List of Current State Board Policies (November 2018)

Six Year Policy Review Schedule

<u>Policy Number</u>	<u>Policy Name</u>	<u>Last Review Date</u>	<u>Next Scheduled Review Due</u>
#1000 (SYS) --- SYSTEM MISSION AND DIRECTION			
1004(SYS)83-7	Prevention Services	7/23/14	July 2020
1007(SYS)86-2	Behavioral Health and Developmental Services for Children and Adolescents and Their Families	4/5/2017	Spring 2023
1008(SYS)86-3	Services for Older Adults with Mental Illness, Mental Retardation, or Substance Use Disorders	7/23/2013	Summer 2019
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	July 2020
1015(SYS)86-22	Services for Individuals with Co-occurring Disorders	10/7/16	Fall 2022
1016(SYS)86-23	Policy Goal of the Commonwealth for a Comprehensive, Community-Based System of Services	12/4/12	Underway
1021(SYS)87-9	Core Services	10/7/16	Fall 2022
1023(SYS)89-1	Workforce Cultural and Linguistic Competency	6/3/08	July 2020
1028(SYS)90-1	Human Resource Development	4/27/11	Underway
1030(SYS)90-3	Consistent Collection and Utilization of Data in State Facilities and Community Services Boards	4/9/2013	Spring 2019
1034(SYS)05-1	Partnership Agreement	12/4/12	Fall 2018
1035(SYS)05-2	Single Point of Entry and Case Management Services	7/23/13	Underway
1036(SYS)05-3	Vision Statement	12/1/16	Fall 2022
1038(SYS)06-1	The Safety Net of Public Services	12/6/13	Fall 2019
1039(SYS)06-2	Availability of Minimum Core Services	7/23/2013	Summer 2019
1040(SYS)06-3	Consumer and Family Member Involvement and Participation	7/23/2013	Summer 2019
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	12/6/13	Fall 2019
1042(SYS)07-1	Primary Health Care	12/6/13	Underway
1043(SYS)08-1	Disaster Preparedness	7/23/14	July 2020
1044(SYS)12-1	Employment First	12/4/12	Fall 2019

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#2000 (ADM ST BD) --- ADMINISTRATION			
2010 (ADM ST BD) 10-1	Review and Comment on BHDS Budget Priorities (6001(FIN)86-1)	4/6/2018	Spring 2024
2011(ADM)88-3	Naming of Buildings, Rooms and Other Areas at State Facilities	12/6/11	Underway
#3000 (C O) --- CENTRAL OFFICE			
3000(CO)74-10	Department Employee Appointments to Community Services Boards	12/6/11	Underway
#4000 (CSB) --- COMMUNITY SERVICES BOARDS/COMMUNITY PROGRAMS			
4010(CSB)83-6	Local Match Requirements for Community Services Boards	10/7/16	Fall 2022
4018(CSB)86-9	Community Services Board Performance Contracts	10/7/08	Fall 2014
4023(CSB)86-24	Housing Supports	7/12/17	Summer 2023
4037(CSB)91-2	Early Intervention Services for Infants and Toddlers with Disabilities and Their Families	12/8/09	Rescinded
4038(CSB)94-1	Department and CSB Roles in Providing Services to Children Under the Comprehensive Services Act for At-Risk Youth and Families	12/8/09	Fall 2023
#5000 (FAC) --- STATE MENTAL HEALTH AND MENTAL RETARDATION FACILITIES			
5006(FAC)86-29	Razing of Dilapidated Buildings	4/6/2018	Spring 2024
5008(FAC)87-12	Accreditation/Certification	4/6/2018	Spring 2024
5010(FAC)00-1	State Facility Uniform Clinical and Operational Policies and Procedures	4/6/2018	Spring 2024
#6000 (FIN) --- FINANCIAL MANAGEMENT			
6005(FIN)94-2	Retention of Unspent State Funds by Community Services Boards	7/17/2019	Summer 2025

Appendix B: 2019 Annual Regulatory Status Report (November 2019)

REGULATORY ACTIVITY: 2019 ACTION TAKEN

Board		STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES		
Virginia Administrative Code (VAC) CITATION	CHAPTER TITLE (FULL TITLE)	REGULATIONS IN PROCESS		
		PURPOSE	STAGE	STATUS
<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	Adding 'Licensed Psychiatric/Mental Health Nurse Practitioner' to the Definition of Licensed Mental Health Practitioner (LMHP)	<ul style="list-style-type: none"> Fast Track 	<ul style="list-style-type: none"> This regulation became effective on February 21, 2019.
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>	Compliance with Virginia’s Settlement Agreement with United States Department of Justice (US DOJ)	<ul style="list-style-type: none"> Emergency/ Notice of Intended Regulatory Action (NOIRA) Standard 	<ul style="list-style-type: none"> A request for extension was made December 11, 2019, for the emergency regulation that expires February 29, 2020. The standard action was filed for Executive Branch review for the proposed stage on March 1, 2019. The proposed stage was approved on October 15, 2019, with a public comment from November 11, 2019 – January 10, 2020.
<u>12 VAC 35-105</u> All sections.	<i>same</i>	To provide specific standards for licensing of organizations and facilities that provide behavioral health and developmental disability services.		<ul style="list-style-type: none"> As a response to periodic review (closed December 15, 2017), an initial draft of a new general chapter was developed by August, a regulatory advisory panel was organized and met twice (September and October), and a 30-day public comment forum ended October 31, 2019. A revised draft is under internal review.
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>	In accordance with Chapter 136 of the 2017 General Assembly to add occupation therapists (OT), occupational therapists assistants (OTA), and editing definitions of Qualified Mental Health Practitioner (QMHP), Qualified Developmental Disability Professional	<ul style="list-style-type: none"> Standard 	<ul style="list-style-type: none"> This regulation became effective on June 15, 2019.

		(QDDP), Paraprofessionals.		
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>	Allowing a grace period for documentation of Individual Service Plans (ISP)	<ul style="list-style-type: none"> • <i>Standard</i> 	<ul style="list-style-type: none"> • The proposed stage was filed for Executive Branch review on July 18, 2019, and that reached the Governor's Office on November 17, 2019.
<u>12 VAC 35-105</u> NEW Section 435.	<i>same</i>	In accordance with Chapter 776 of the 2019 General Assembly, to require a provider statement to any other provider when a criminal history background check is required.	<ul style="list-style-type: none"> • <i>Fast Track</i> 	<ul style="list-style-type: none"> • This action was filed for Executive Branch review on July 25, 2019, and reached the Secretary of Health and Human Resources Office on October 8, 2019.
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>		<ul style="list-style-type: none"> • <i>Petitions for Rulemaking</i> 	<ul style="list-style-type: none"> • Two petitions for rulemaking were filed by the same petition on August 14 and August 27, 2019. A decision to take no action was filed for each on October 17, 2019.
<u>12 VAC 35-180</u>	Regulations to Assure the Protection of Participants in Human Research	To define policy and review requirements to protect individuals with mental illness, mental retardation, and substance abuse or dependence problems who are participants in human research performed by facilities or programs operated, funded, or licensed by the department.	<ul style="list-style-type: none"> • <i>Fast Track</i> 	<ul style="list-style-type: none"> • This action was filed for Executive Branch review on October 10, 2018. The Governor's Office review was started April 14, 2019.
<u>12 VAC 35-210</u>	Regulations to Govern Temporary Leave from State Mental Health and Mental Retardation Facilities	To establish the general process and requirements related to temporary leave from state facilities, including the conditions for granting leave.	<ul style="list-style-type: none"> • <i>Fast Track</i> 	<ul style="list-style-type: none"> • As a result of periodic review, the fast track action became effective February 21, 2019.
<u>12 VAC 35-225</u>	Requirements for Virginia's Early Intervention System	To provide the requirements for Virginia's early intervention services system that are designed to protect the health, safety, and welfare of children with disabilities from birth through the age of two and their families to ensure access to appropriate early intervention services.	<ul style="list-style-type: none"> • <i>Periodic Review</i> 	<ul style="list-style-type: none"> • Initiated October 10, 2019, with a public comment forum held November 11 – December 2, 2019.

<u>12 VAC 35-230</u>	Operation of the Individual and Family Support Program	To assist individuals with developmental disabilities (DD) who are on a waiting list for waiver services and their family members access needed person-centered and family-centered resources, supports, services and other assistance as approved by the department.	<ul style="list-style-type: none"> • <i>Periodic Review</i> 	<ul style="list-style-type: none"> • The decision to retain as is was filed on January 17, 2019.
<u>12VAC35-250</u>	Peer Recovery Specialist Certification	To establish certification requirements for peer recovery specialists (Item 311.B. of the <i>2016 Appropriation Act</i>).	<ul style="list-style-type: none"> • <i>Standard</i> 	<ul style="list-style-type: none"> • This new regulation became effective on March 6, 2019.
<u>12 VAC 35-270</u> <i>NEW</i>	Certified Recovery Residences	In accordance with Chapter 220 of the 2019 General Assembly, to establish certification of recovery residences.	<ul style="list-style-type: none"> • <i>Fast Track</i> 	<ul style="list-style-type: none"> • Prior to official submission, a draft was published for comment in a forum ending on May 9, 2019. This new regulation was filed for Executive Branch review on August 16, 2019. The Secretary of Health and Human Resources Review started on November 17, 2019.

Appendix C: 2020 Meeting Schedule

State Board of Behavioral Health and Developmental Services

2020 MEETING SCHEDULE

DATE	Location
April: 2 (Thurs)	Piedmont Geriatric Hospital (PGH) Crewe
July: 15 (Wed)	Central Office, DBHDS Richmond
Oct: 14 (Wed)	Southwestern Virginia Mental Health Institute (SWVMHI) Marion
Dec: 2 (Wed)	Central Office, DBHDS Richmond