

2021 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, 2022

STATE BOARD OF
BEHAVIORAL HEALTH AND
DEVELOPMENTAL SERVICES

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January 1, 2022

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 provide 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 2021, quarterly meetings originally planned in 2020 for visits to agency facilities in Nottoway and Marion were again modified and held entirely virtually in April (in accordance with Item 4-0.01 g. of Chapter 1283 of the 2020 Acts of Assembly) and both in person and virtually in Richmond in July, September, and October. All meetings were held in accordance with Article 5 the Bylaws of the State Board and the Virginia Freedom of Information Act (FOIA). During these meetings, the Board heard reports from DBHDS Commissioner Alison Land and staff presentations on:


- Major initiatives such as the Crisis System Transformation, Excellence and Performance (STEP- VA) model to transform Virginia's mental health services including the 'Marcus Alert' legislation, compliance efforts targeted to exiting the US Department of Justice Settlement Agreement, prevention services, Human Resources Career Pathways Program and Health Sciences Workforce Highway, and Virginia Department of Health efforts addressing health equity;
- The state facility staffing and hospital bed crises;
- The state human rights system;
- Community services boards (CSBs) including the workforce shortages reported by the Virginia Association of CSBs; and
- Geriatric services provided at Piedmont Geriatric Hospital and behavioral rehabilitation services provided at the Virginia Center for Behavioral Rehabilitation.

At its July 2021 biennial planning retreat and regular meeting, 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 feel special consideration should be noted to the comprehensive and ongoing impacts of the pandemic over the entire system of services and across all ages. In addition, members are interested in your support to:

1. Maintain the workforce at appropriate staffing levels. The state hospital crisis definitely is an immediate priority, but the board notes that workforce and pay issues are not new, and are system-wide.
2. Continue to address the department's strategic objective regarding community-based supports, as any previous efforts need to be completed and new efforts must be started to continue to make the community structure what it should be. (Ex. STEP-VA.)
3. Make the public aware of the frequency that individuals need services to address mental health and substance use disorders or developmental disabilities. Increase the public awareness of how to access services and provide encouragement to seek help. The needs have always been in our society, but the pandemic raised awareness and reduced stigma, yet simultaneously exacerbated those needs. For example, increased adolescent mental health needs and increases in teen suicide. Also, there are windows of development for children, especially for children with developmental disabilities. With disruption in therapy and schooling, those windows are missed opportunities, putting children at higher risk.
4. Streamline the discharge process from state hospitals.
5. Continue to prioritize waiver rates and the elimination of the waiting list for the developmental disability population, as highlighted in the board's 2019 letter.
6. Brace for the impacts of the pandemic on the system for all stages of the lifespan in regard to resources and priorities. By necessity, society has had to be reactive but hopefully things can shift to be more proactive.

Of course, the impact of the pandemic on state resources has created an additional challenge to meet all of the Commonwealth's needs. However, the Board continues to hope that behavioral health and developmental services priorities remain in the forefront of all issues brought before the 2021 Session of the General Assembly.

Sincerely,



Elizabeth Hilscher, Chair

Cc: Members, State Board of Behavioral Health and Developmental

Services

The Honorable Richard L. Saslaw

The Honorable Eileen R. Filler-Corn

The Honorable Vanessa Walker Harris, M.D.

Alison G. Land, FACHE

Meghan McGuire

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TABLE OF CONTENTS

<i>Introduction</i>	5
<i>Board Membership</i>	5
<i>Review of Statutory Authority</i>	6
<i>FY 2021 Accomplishments</i>	8
<i>Area of Responsibility-A: Policy Development and Monitoring</i>	8
<i>Area of Responsibility-B: Ensure the Development of Programs and Plans</i>	9
<i>Area of Responsibility-C: Review and Comment on All Budgets and Requests</i>	9
<i>Area of Responsibility-D: Adopt Regulations</i>	9
<i>Area of Responsibility-E: Communication, Coordination & Collaboration</i>	9
<i>Summary and Next Steps</i>	10
<i>Appendices</i>	11
<i>Appendix A: List of Current State Board Policies</i>	12
<i>Appendix B: 2021 Annual Regulatory Status Report</i>	13
<i>Appendix C: 2022 Meeting Schedule</i>	14

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 remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. No person shall serve more than a total of 12 years.

Quarterly meetings to effectively address policy, regulatory, and systems change issues were originally planned for Nottoway, Richmond, and Marion. Due to the pandemic, all meetings were held virtually in accordance with Item 4-0.01 g. of Chapter 1283 of the 2020 Acts of Assembly. One meeting in Richmond was both in person and virtual. The dates of the four meetings in 2021 as follows:

- April 14 (virtual).
- July 28, Richmond City.
- September 29, Richmond City.
- December 8, 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:

- Elizabeth Hilscher, Richmond City, Chair;
- Rebecca Graser, Richmond County, Vice-Chair;
- The Hon. E. Paige Cash, Pulaski;
- Varun Choudhary, Henrico;
- Jerome Hughes, Prince William;
- Kendall Lee, Lunenburg;
- Moira Mazzi, Fairfax County;
- Christopher Olivo, York; and
- Sandra Price-Stroble, Harrisonburg.

The current Board membership consists of individuals who have been appointed as early as 2014, with the most recent appointment made in October 2020. It is noteworthy that the Board has experienced a historic number of membership changes in the past two years, one in late 2019 and three in 2020.

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.

2021 ACCOMPLISHMENTS

The work of the committees was delayed from 2020 due to the initial state of emergency that required only emergency meetings, and board membership changes that prompted shifts in committee memberships.

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 2021, the Board reviewed and continues to revise the following policies:

- Policy 2010 (ADM) 88-2 Policy Development and Evaluation
- Policy 2011 (ADM) 88-3 Naming New and Existing State Facilities.
- Policy 3000 (CO) 74-10 Appointments of Department Employees to Community Services Boards.

**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 is required to produce and biennially update a comprehensive six year plan that identifies services and supports needs of individuals with mental illness, developmental disabilities, or substance use disorders; proposes strategies to meet those needs; and defines resource requirements for behavioral health and developmental services. As specified in the Powers and Duties, the Board plays a role in the review of the Comprehensive State Plan. However, by necessity since the pandemic in 2020, the department focused strategic planning efforts on addressing: i) the pandemic to ensure continuity of services across the system; ii) the bed census at state facilities; and iii) meeting the requirements of the Settlement Agreement. The department is currently involved in providing a transition plan to carry through the change of administrations, in advance of a revised long term strategic plan. State Board members received regular updates on the actions to address these three time-sensitive priorities. Also, the Board received updates on funding through the American Rescue Plan Act, and the Commissioner presented details of major initiatives at every 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 Commissioner Land about agency budget submissions and ongoing status reports for the 2021 Regular and Special Sessions of the Virginia General Assembly.

**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. New assignments of liaison areas were reviewed and confirmed. Within the DBHDS system, members of the Board were provided updated connection to DBHDS facility and community services boards directors in order to be kept aware of 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.

SUMMARY AND NEXT STEPS

The Board will continue to work with staff and other interested individuals to review and act on regulatory proposals, and identify relevant issues that it should address on policy in conjunction with ongoing review of all existing policies on a scheduled basis.

APPENDIX A: LIST OF CURRENT STATE BOARD POLICIES (NOVEMBER 2020)

Six Year Policy Review Schedule

Policy Number	Policy Name	Last Review Date	Next Scheduled Review Date
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	Apr-07	Jul-20
1023(SYS)89-1	Workforce Cultural and Linguistic Competency	Jun-08	Jul-20
1016(SYS)86-23	Policy Goal of the Commonwealth for a Comprehensive, Community-Based System of Services	Dec-12	Dec-18
1034(SYS)05-1	Partnership Agreement	Sep-18	Dec-21
1044(SYS)12-1	Employment First	Dec-12	Sep-19
1030(SYS)90-3	Consistent Collection and Utilization of Data in State Facilities and Community Services Boards	Apr-13	Apr-19
1035(SYS)05-2	Single Point of Entry and Case Management Services	Jul-13	Jun-19
1039(SYS)06-2	Availability of Minimum Core Services	Jul-13	Jun-19
1008(SYS)86-3	Services for Older Adults with Mental Illness, Mental Retardation, or Substance Use Disorders	Jul-13	Jun-19
1040(SYS)06-3	Consumer and Family Member Involvement and Participation	Jul-13	Jun-19
1038(SYS)06-1	The Safety Net of Public Services	Dec-13	Sep-19
1042(SYS)07-1	Primary Health Care	Dec-13	Dec-19
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	Dec-13	Sep-19
1043(SYS)08-1	Disaster Preparedness	Jul-14	Jun-20
1004(SYS)83-7	Prevention Services	Jul-14	Jul-20
1021(SYS)87-9	Core Services	Oct-16	Sep-22
1015(SYS)86-22	Services for Individuals with Co-occurring Disorders	Oct-16	Sep-22
1036(SYS)05-3	Vision Statement	Dec-16	Sep-22
1007(SYS)86-2	Behavioral Health and Developmental Services for Children and Adolescents and Their Families	Apr-17	Apr-23
1028(SYS)90-1	Human Resource Development	Oct-20	Oct-26
2010(ADM)88-2	Policy Development and Education	Apr-12	Apr-21
2011(ADM)88-3	Naming of Buildings, Rooms and Other Areas at State Facilities	Dec-17	Oct-21

2010 (ADM ST BD) 10-1	Review and Comment on BHDS Budget Priorities (6001(FIN)86-1)	Apr-18	Apr-24
3000(CO)74-10	Department Employee Appointments to Community Services Boards	Dec-17	Apr-21
4038(CSB)94-1	Department and CSB Roles in Providing Services to Children Under the Comprehensive Services Act for At-Risk Youth and Families	Dec-09	Sep-23
4010(CSB)83-6	Local Match Requirements for Community Services Boards	Oct-16	Sep-22
4023(CSB)86-24	Housing Supports	Jul-17	Jun-23
4018(CSB)86-9	Community Services Board Performance Contracts	Oct-20	Oct-26
5006(FAC)86-29	Razing of Dilapidated Buildings	Apr-18	Apr-24
5008(FAC)87-12	Accreditation/Certification	Apr-18	Apr-24
5010(FAC)00-1	State Facility Uniform Clinical and Operational Policies and Procedures	Apr-18	Apr-24
6005(FIN)94-2	Retention of Unspent State Funds by Community Services Boards	Jul-19	Jun-25

APPENDIX B: 2021 ANNUAL REGULATORY STATUS REPORT (DECEMBER 2021)

REGULATORY ACTIVITY: 2021 ACTION TAKEN

Board STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES				
VAC CITATION	CHAPTER TITLE (FULL TITLE)	REGULATIONS IN PROCESS		
		PURPOSE	STAGE	STATUS
12 VA 35-12	Public Participation Guidelines.	To provide guidelines for involvement of the public in the development and promulgation of regulations of DBHDS.	• Periodic Review.	• Public comment forum closed on 9/20/2021.
12 VAC 35-46 Certain sections and NEW Sections 1150-1250.	Regulations for Children's Residential Facilities	In accordance with Item 318.B. of the 2020 Appropriation Act to align with the American Society of Addiction Medicine (ASAM) Levels of Care Criteria or an equivalent set of criteria.	• Emergency: To Standard.	• Effective 2/20/2021. Expires 8/19/2022. Proposed stage pending DPB approval.
12 VAC 35-46 Certain sections and NEW Sections.	<i>same</i>	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).	• Emergency/NOIRA	• Approved by Governor December 21, 2021.
12 VAC 35-46	<i>same</i>	To provide the process and standards for licensing children's residential facilities.	• Periodic Review.	➤ <i>Action expected January 7, 2021.</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	In accordance with Item 318.B. of the 2020 Appropriation Act, amendments to align with ASAM criteria.	• Emergency: To Standard.	• Effective 2/20/2021. Expires 8/19/2022. Proposed stage pending DPB approval.
<u>12 VAC 35-105</u> Certain sections.	<i>same</i>	In accordance with Item 318.B. of the 2020 Appropriation Act, amendments to align with enhanced behavioral health services.	• Emergency: To Standard.	• Effective 2/20/2021. Expires 8/19/2022. Proposed stage pending DPB approval.
<u>12 VAC 35-105</u> <i>All sections.</i>	<i>same</i>	<i>Response to 2017 periodic review ('overhaul' to service-specific chapters).</i>	• Periodic Review.	• Public comment closes 11/30.
<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	To protect the legal and human rights of all individuals who receive services in programs and facilities operated, funded, or licensed by DBHDS.	• Periodic Review.	• A public comment forum closed on 1/25/2021. <i>Amend.</i>

	Behavioral Health and Developmental Services			
<u>12 VAC 35-190</u>	Regulations for Voluntary Admissions to State Training Centers	To detail criteria and procedures for voluntarily admitting persons to a state training center>	• Periodic Review.	• Public comment forum ended on 9/20/2021.
<u>12 VAC 35-200</u>	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.	• Periodic Review.	• Public comment forum closed on 9/20/2021.
<u>12 VAC 35-210</u>	Regulations to Govern Temporary Leave from State Facilities	To establish the general process and requirements related to temporary leave from state facilities	• Periodic Review.	• Public comment forum closed on 9/20/2021.
<u>12 VAC 35-230</u>	Operation of the Individual and Family Support Program	The IFSP assists individuals with developmental disabilities (DD) who are on a waiting list for waiver services and their family members to access needed resources, supports, services, and other assistance.	• Periodic Review.	➤ <i>Action expected January 7, 2022.</i>
<u>12 VAC 35-240</u>	Victims of Sterilization Fund Program	To provide administrative guidelines for appropriate documentation to verify the claim of individuals who were victims of forced sterilization to be compensated pursuant to the Virginia Eugenic Sterilization Act	• Periodic Review	• Comment Period ended on 6/14/2021. <i>Retain as is.</i>

Appendix C: 2022 Meeting Schedule

State Board of Behavioral Health and Developmental Services

2022 MEETING SCHEDULE

DATE	Location
March 30 (Wed)	<i>TBD</i>
July 13 (Wed)	<i>Central Office, DBHDS Richmond</i>
Sept 28 (Wed)	<i>TBD</i>
December 7 (Wed)	<i>Central Office, DBHDS Richmond</i>