COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
Office of the Commissioner

Danny TK Avula MD, MPH
Commissioner

March 25, 2024

MEMORANDUM

TO: The Honorable Glenn Youngkin
Governor of Virginia

Members, Virginia General Assembly

FROM: Danny TK Avula MD, MPH

SUBJECT: Report on the Director of Foster Care Health & Safety

This report is submitted in compliance with Chapter 446 of the 2019 Acts of Assembly (Foster Care Omnibus Bill), which states:

2. That the Commissioner of Social Services shall establish within the State Department of Social Services (Department) a director of foster care health and safety position. The director of foster care health and safety shall (i) identify local boards of social services (local boards) that fail to provide foster care services in a manner that complies with applicable laws and regulations and ensures the health, safety, and well-being of all children in the supervision and control of the local board; (ii) ensure that local boards remedy such failures, including those related to caseworker visits, safe and appropriate placement settings, and the provision of physical, mental, and behavioral health screenings and services; (iii) ensure that reports of abuse, neglect, mistreatment, and deaths of children in foster care are properly investigated; (iv) manage the process through which the Department reviews children's residential facility placements for medical necessity; and (v) track health outcomes of children in foster care. On or before November 30 of each year, the director of foster care health and safety shall report to the Governor and the General Assembly on the implementation and effectiveness of such objectives and any other issues relevant to the health, safety, and well-being of children in foster care.

Please contact me should you have any questions at (804) 726-7017.

DA:kc
Attachment

cc: The Honorable John Littel, Secretary of Health and Human Resources

Virginia Department of Social Services
Annual Report on the Director of Foster Care Health and Safety
November 2023

Report Mandate

Chapter 446 of the 2019 Acts of Assembly (Foster Care Omnibus Bill) requires:

> *2. That the Commissioner of Social Services shall establish within the State Department of Social Services (Department) a director of foster care health and safety position. The director of foster care health and safety shall (i) identify local boards of social services (local boards) that fail to provide foster care services in a manner that complies with applicable laws and regulations and ensures the health, safety, and well-being of all children in the supervision and control of the local board; (ii) ensure that local boards remedy such failures, including those related to caseworker visits, safe and appropriate placement settings, and the provision of physical, mental, and behavioral health screenings and services; (iii) ensure that reports of abuse, neglect, mistreatment, and deaths of children in foster care are properly investigated; (iv) manage the process through which the Department reviews children's residential facility placements for medical necessity; and (v) track health outcomes of children in foster care. On or before November 30 of each year, the director of foster care health and safety shall report to the Governor and the General Assembly on the implementation and effectiveness of such objectives and any other issues relevant to the health, safety, and well-being of children in foster care.*

Status of hiring a Director of Foster Care Health and Safety

For the reasons detailed below, the Department has not filled this position.

In 2019, the Department posted the job position with the following criteria (which aligned with JLARC recommendations on similar positions created in New Jersey, Maryland, and Tennessee):

VDSS established the following minimum qualifications for the position:

1) Licensed physician (MD or DO degree) in good standing in the state of Virginia,
2) Experience providing medical care to children,
3) Board-certified through the American Board of Medical Specialties,
4) Knowledge of unique health care and developmental needs of children in foster care and the application of standardized medical necessity criteria in medical decision making,
5) Skills to analyze data and report trends, and
6) Proficiency in written and verbal communications.

The position was posted for recruitment on July 12, 2019. After several months during which no applications for the position were received, VDSS made an adjustment to increase the potential starting salary to the maximum amount funded by the budget allocation. VDSS continued to advertise and recruit for this position when the COVID-19 pandemic began in March 2020. The Department conducted several interviews with promising candidates, but all applicable candidates expressed interest as a part-time position. VDSS was in the process of exploring the

possibility of modifying the job description to allow for a candidate to, at least, begin in the position on a part time rather than full time basis, when the Governor declared a State of Emergency and instituted a hiring freeze.

Once the hiring freeze was lifted, the Department began re-evaluating the criteria and position given the previous difficulties in hiring as a full-time staff. Currently, the Department is considering filling the position with an individual that meets the majority of the criteria listed above and hiring a physician or psychiatrist on a part time or PRN basis.

Status of reporting requirements

Although the position of Director of Foster Care Health and Safety has not been filled, the provisions of the Foster Care Omnibus Bill related to the position are being addressed as VDSS works toward full implementation of the requirements of the bill. The status of each of the objectives within the reporting criteria of the Foster Care Omnibus Bill are noted below:

(i) Identify local boards of social services (local boards) that fail to provide foster care services in a manner that complies with applicable laws and regulations and ensures the health, safety, and well-being of all children in the supervision and control of the local board; and, (ii) ensure that local boards remedy such failures, including those related to caseworker visits, safe and appropriate placement settings, and the provision of physical, mental, and behavioral health screenings and services

VDSS regularly reviews data trends at state and regional levels to provide plans of action and recommendations for improvement. VDSS partners with the LDSS, other entities providing oversight, including the Office of the Children's Ombudsman to identify agencies in need of greater support and intervention as concerns arise. Using the Continuous Quality Improvement (CQI) model, VDSS employs a comprehensive and forward-thinking approach proactively address emerging concerns and implement measures for safeguarding the integrity of program operations. Agencies with continual or chronic barriers to successful outcomes are supported through targeted technical assistance from regional and/or CQI staff, or other avenues (including targeted recruitment assistance), to have a greater likelihood of becoming successful and mitigating risk.

In late 2022, VDSS Commissioner intervened in a foster care case in a local department of social services. The issues uncovered resulted in the foster care case being transferred to another locality and supervised by VDSS. After almost of full year of supervising the case, the case resulted in the child in foster care being returned home to her father.

Throughout 2023, regional offices provided intensive support to at least four local departments of social services. These efforts included numerous on-site visits as well as virtual meetings, targeted training and opportunities to address concerns in real time. The consultants reviewed cases and CPS referrals with new supervisors to model what the process should look like. They provided feedback to local DSS leadership, along with strategies for improvement to ensure the safety of children and families. The consultants also facilitated discussions with these agencies around specific cases to model engagement and improve efforts to effectively engage with

families. Consultants worked closely with three agencies to support them in reimagining their family services division work structure and how to best utilize their limited staffing resources.

As agencies experienced severe staffing shortages, regional offices have been activated to assist those agencies with all tasks to address immediate needs. Tasks included records organization, filing and sorting documentation, shadowing entries into the case management system to ensure accuracy, retrieving documents from the court, facilitating the use of contracted staff to assist with face-to-face worker visits, as well as other activities to ensure that all foster care mandates are met.

Caseworker visits
LDSS caseworkers have been consistently meeting the compliance expectation that 95% of children in foster care are visited face-to-face each month since it was established in 2014. For the reporting period of July 1, 2022, to June 30, 2023, the face-to-face monthly visit rate was 95.7% with 79.6% of those visits taking place in the child's residence. The federal standard for visits in the child's residence is 50%; therefore, VDSS has exceeded the standard by 29.6%. VDSS provided additional technology to LDSS during the pandemic to ensure that worker visits could be completed virtually (as permitted by federal and state regulatory waivers) while ensuring confidentiality. Although VDSS no longer maintains the contract for this technology, many LDSS have entered into their own contract, so the workers still have access to the virtual platform. LDSS have reported that the use of technology and the virtual platforms have increased contacts with children and families.

Safe and appropriate placements
Resource family regional consultants and the resource family program manager are responsible for implementing a data-driven strategic plan, to be updated biennially, to improve the recruitment and retention of foster families and provide greater availability of safe and appropriate placements. Objectives of the Diligent Recruitment Plan include improving the availability and quality of data regarding available foster homes. The family resource consultants and program manager continue to work to improve data collection. Resource family consultants also assist LDSS in developing data driven recruitment plans to ensure that foster families are available in the communities from which children are removed and that foster families represent the racial and ethnic makeup of children in foster care. The implementation of the Faster Families Highway Recruitment Portal supports these efforts.

The resource family program has revised guidance to include a Relative Notification and Appeal Process in response to changes to Virginia Code enacted during the 2022 Session of the General Assembly to establish a relative notification, denial, and appeal process to support a consistent practice of searching for and engaging relatives when children are at risk of entering foster care or require placement once in foster care. The process requires that LDSS provide written notification to identified relatives and fictive kin within 15 calendar days of a relative or fictive kin expressing interest in becoming a kinship foster parent. To support appropriate assessment of relatives, VDSS in collaboration with LDSS stakeholder feedback, established the Permanency Assessment Tool. LDSS must use the tool when relatives or fictive kin express interest in becoming an approved kinship foster parent and should use the tool to engage prospective kinship foster parents and facilitate their understanding of the role they will play in supporting reunification and permanency. Finally, when LDSS determine that a relative cannot

be approved as a kinship foster parent for their relative child in foster care, the relative must be notified in writing within ten business days of the decision to deny approval. Written notification outlines the process by which the relative may appeal the decision of the LDSS with the Office of Fair Hearings and Appeals. If it is determined that LDSS did not adhere to guidance provided by VDSS in notifying and assessing the relative for approval a kinship foster parent, the decision of the LDSS may be remanded and the relative engaged in the process of seeking approval.

In July 2019, practice guidance was revised to include the requirement of relative searches and documentation of efforts in the electronic case management system (OASIS/COMPASS) at the following points: prior to removal, at each placement change, and annually. Upon the release of the updated guidance, training for workers was conducted. Additionally, reminders for workers and supervisors were added to the COMPASS Mobility App to correspond with each aforementioned search point. Relative search content has also been added to regulations and continues to make its way through the regulatory process. National experts provided practice accelerator sessions to VDSS staff as well as LDSS that focused on meeting the needs of children in foster care through family discovery and engagement. Practice consultants have also focused on relative searches and provided technical assistance around this through their work with the congregate care reviews.

To further support the use of appropriate placements, regional consultants review all cases where children have been in care for 24 months or longer and cases where youth are at-risk of aging out of foster care. This includes youth whose parental rights have been terminated and do not have an adoptive family identified. Through this process the regional consultants assist LDSS to find permanent homes for these children. These elements are included in the ongoing statewide data review process to identify trends and provide analysis and follow up with LDSS. Reports that track the percentage of children in foster care by length of stay and the average length of stay by state and region have been developed and are distributed quarterly. VDSS is also working with LDSS on maintaining accurate resource family lists, which include demographic and capacity information.

Provision of physical, mental and behavioral health screenings and services

Regional consultants provide oversight for LDSS for the provision of physical, mental, and behavioral health screening and services for children and youth in foster care. Additionally, VDSS has partnered with the Department of Medical Assistance Services (DMAS) through the use of an annual report published by DMAS, *Foster Care Focused Study,* which focuses on the physical, mental, and behavioral health access and diagnoses pertaining to foster care. This ensures that VDSS will continue to utilize information and data to address physical, mental, and behavioral health screenings and services from an administrative level.

In the *2021-22 Foster Care Focused Study*, physical, mental, and behavioral health screening and service rates were better than those in the non-foster care population control group. Children and youth in foster care received well child visits at 64.8% compared with 54.7% of children and youth not in foster care (comparison group); an annual dental visit rate of 70.6% compared with 52.4% for non-foster care populations; and access to preventative dental services at a rate of 64.6%, compared with 45.6% for non-foster care populations. For behavioral health comparisons, children in foster care had a 30-day follow up after emergency department visits

for mental illness at a rate of 92.9% compared with 81.5% for non-foster care populations. The only area where children and youth in foster care had lower rates was regarding substance use treatment. Children and youth in foster care experienced Initiation of Abuse or Dependence (AOD) Treatment at 40.8% versus 48.1% for children and youth not in foster care. VDSS will continue to work with DMAS to monitor this data and address all deficiencies. (Commonwealth of Virginia Department of Medical Assistance Services, *2021-22 Foster Care Focused Study*, 2023).

(iii) Ensure that reports of abuse, neglect, mistreatment, and deaths of children in foster care are properly investigated

LDSS are responsible for the investigation of reports of child abuse, neglect, and deaths of children in foster care. At this time, VDSS does not have the automated infrastructure to track how many maltreatment reports involve children in foster care; however, VDSS does track the number of child deaths involving children in foster care.

In SFY23, LDSS investigated 6 deaths that involved a child in foster care. To ensure proper investigations are conducted, LDSS receive training, coaching, and technical assistance from state staff (which includes regional staff). There are five regional teams in Virginia that review child deaths investigated by Child Protective Services (CPS). These teams are led by regional CPS staff. Reviews are conducted by a multi-agency, multi-disciplinary process that systematically examines circumstances surrounding the child's death. The purpose of the review by the teams is to enable VDSS, LDSS, and local community agencies to identify important issues related to child protection and to take appropriate action to prevent child fatalities.

Virginia's child-fatality review teams use the National Fatality Review Case Reporting System, Version 6.0 data tool, from the National Center for Fatality Review and Prevention, to collect comprehensive information and document the circumstances involved in the death, investigative actions, services provided or needed, key risk factors, and actions recommended and/or taken by the review team. Child-fatality data is collected and analyzed on an annual basis and reported to community stakeholders, LDSS, and the general public. Child Death Reports are also published on the VDSS public website.

In addition to case level reviews, all five regional child fatality review teams develop and implement recommendations to prevent future child maltreatment deaths.

(iv) Manage the process through which the Department of Social Services reviews children's residential facility placements for medical necessity

VDSS developed an ongoing review process for children and youth placed in congregate care, in order to continue to assess medical necessity, support the movement of these children to family-based placements as soon as possible, and reduce the use of congregate care placements across the state. VDSS will continue this process to identify the children for whom congregate care is not appropriate. As trends are identified within each region, regional permanency consultants and resource family consultants provide assistance to LDSS in developing plans to transition children into family-based care. Priority is placed on providing opportunities for children to connect with relatives and fictive kin and to identify those relatives and fictive kin who may serve as a placement for these children. Each case is reviewed within three months of the child being placed in congregate care to ensure that discharge planning begins immediately.

Following the initial review, the regional permanency consultants support the efforts to move children out of congregate care and into family-based settings through monthly follow up with agencies.

In the spring of 2020, VDSS began to hold ongoing congregate care reviews and assessments of all children placed in congregate care in Virginia to determine if there were children that were in congregate care settings without medical necessity. For SFY2023, an average of 12.2% of children in foster care were in congregate care placements and institutional care. While there was a decrease in SFY22, this number represents an increase and a return to the previous rate of 12.1% of children in SFY20. In SFY23, there were 390 cases that were reviewed, 57% of which were between the ages of 15-17.

The review of the cases includes whether the child is prescribed psychotropic medications and the protocol outlined in guidance is being followed. The reviews completed in SFY23 found that 85.9% of children were prescribed psychotropic medication and 98.8% of the time the agency followed the psychotropic medication oversight protocol. To better measure LDSS progress towards discharge planning, during SFY23, consultants began to track whether the child has someone other than their worker visiting them while in the congregate placement. Of the cases reviewed in quarter 3 of SFY23, 72.1% had someone visiting with them and of the cases reviewed in quarter 4 of SFY, 61.2% had someone visiting.

As mentioned earlier, in October 2021 consultants began reviewing cases within the first three months of placement to ensure that discharge planning was occurring immediately. Children placed in congregate care settings between July-September 2021 averaged 17.45 months in congregate care. Children placed between July-September 2022 averaged 15.77 months which suggests that the review of cases earlier in the placement contributes to the decreased time spent in congregate care.

(v)Track health outcomes of children in foster care

The VDSS and DMAS partnership helps to better understand health outcomes for children in foster care, through ongoing collaboration, as well as utilizing the annual *Foster Care Focused Study.* This partnership allows DMAS and VDSS to work collaboratively to meet the federal requirements related to the Virginia Health Care Oversight and Coordination Plan. More specifically, Virginia's high rate of psychotropic medication prescription for children and youth in foster care has been a focus of DMAS and VDSS.

The *2021–22 Foster Care Focused Study* provides comparative analysis of foster care and non-foster care populations. This recent study demonstrated that children in foster care have higher rates of healthcare utilization in 19 out of 20 measures than a comparable control group of children and youth not in foster care.

In order to ensure that psychotropic medication is not being overused among children in foster care, VDSS has instituted an oversight protocol which includes a comprehensive consent document to be completed by the service worker that addresses the following topics:

- How consent is to be obtained with the youth/child.
- How birth parents are to be involved in the decision making.
- How caregivers are to provide information to the prescriber regarding changes in

behavior or mood and how those caregivers receive information about prescriptions and any potential side effects.

- Affirming that information about medical conditions and medications are to be shared with prescribers of psychotropic medication and information about psychotropic medication is to be shared with a youth's other healthcare providers.
- Establishing that regional consultants provide oversight for the provision of physical, mental, and behavioral health screening and services for children and youth in foster care.

Conclusion

Although the Department has experienced difficulty in hiring a Director of Foster Care Health and Safety, there are other staff structures and practice measures put in place to address the work the General Assembly intended to be accomplished with this position. Currently, the Department is considering filling the position with an individual that meets the majority of the criteria listed above and hiring a physician or psychiatrist on a part time or PRN basis.