# 2023 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, 2024** 

#### STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

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### COMMONWEALTH of VIRGINIA

DEPARTMENT OF
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES
Post Office Box 1797

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January 1, 2024

To: The Honorable Glenn A. Youngkin, Governor of Virginia
The Honorable Winsome Earle-Sears, Lieutenant Governor of Virginia
The Honorable Todd Gilbert, Speaker of the House
The Honorable Louise Lucas, President Pro Tempore

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 2023, quarterly meetings originally planned in 2020 for visits to agency facilities but postponed in those congregate settings during the pandemic were finally able to be held onsite. Thus, meetings were held in person and virtually at the following DBHDS facilities:

- March: Southwestern Virginia Mental Health Institute, Marion.
- July: Central State Hospital and Hiram Davis Medical Center, Petersburg.
- September: Piedmont Geriatric Hospital and the Virginia Center for Behavioral Rehabilitation, Burkeville.

The December meeting was held at the Central Office in Richmond. Some additional meetings and tours with area community services boards were held around some of the facility visits.

During the meetings this year, the Board heard reports from DBHDS Commissioner Nelson Smith and staff presentations on:

- The six pillars of the Governor's *Right Help*, *Right Now* Plan, which address behavioral health challenges, including crisis care, law enforcement burden, substance use disorder support, behavioral health workforce, and service delivery innovation;
- Challenges to the state hospital census including the impact of the bed of last resort legislation, temporary detention orders (TDOs) to state hospitals versus private hospitals, "front door" impacts and "back door" impacts, discharge challenges, and the extraordinary barriers to discharge (EBL) list;
- Virginia's crisis system and efforts to align services into an integrated continuum that is both the least restrictive and least costly;
- The state human rights system;

- The US DOJ Settlement Agreement with Virginia;
- Medicaid Developmental Disability Waiver waiting list;
- Efforts to addressing and preventing substance use disorder including the Opioid Abatement Authority;
- The Division of Forensic Services that includes the offices of Forensic Services, Sexually Violent Predators, Juvenile Behavioral Health and Justice, Juvenile Competency Restoration, and Forensic Evaluation and Oversight;
- The Division of the Chief Clinical Officer, an evolution in 2018 of the previous Medical Director
  office, expanded to provide clinical subject matter expertise across the disability program areas
  and establish a broader vision for the quality management for the agency through four main
  clinical areas: Clinical Quality Management, Office of Quality Assurance and Healthcare
  Compliance, Mortality Review, and COVID-19 Mitigation;
- General state of agency facilities and capital projects, and an update on federal grants;
- Reports at each meeting by the Virginia Association of Community Services Boards; and
- State budget and legislative updates.

At its July 2023 biennial planning retreat and regular meeting, the members of the Board were pleased to receive a detailed update from DBHDS leadership on the progress of the Administration's *Right Help, Right Now* initiative and other agency strategic initiatives and budget priorities. The board agreed to put a spotlight on six specific areas as priorities for the biennium.

- 1. Endorse the Governor's *Right Help, Right Now* initiative, which has the potential to be transformative for Virginians. The board has interest in increased capacity of the developmental disability and behavioral health workforce including both community-based and facility services. In particular, the board supports targeted salary increases for food services and environmental services at DBHDS facilities to reduce turnover and vacancy among the lowest paid positions.
- 2. Eliminating the Priority 1 DD Waiver waiting list. This is a strong endorsement of current Administration initiatives within *Right Help, Right Now* and the department's strategic plan.
- 3. In lieu of inpatient hospital care, provide short-term community-based crisis beds in smaller settings to serve individuals across the life span (ex., CITAC; 12 beds for less than 30 days that connects individuals to services upon discharge). This setting could also help to address dually diagnosed individuals with developmental disability and mental illness who have challenging and sometimes violent behaviors.
- 4. Strongly support school-based and other youth services from birth to transition age (age out of school or graduation).
  - a. Building out mental health support services to fill the gap between Early Intervention services and once a child is at school (ages 2-6), including improving CSBs and private provider bandwidth to serve the early childhood/Pre-K age group.
  - b. Dedicated mental health professionals in the schools.
  - c. School resource officers to help connect to resources.
- 5. Review and consider amending the bed of last resort law to correct significant unintended consequences that overburden the state hospital system, law enforcement, community services boards, and other system partners.

6. Consider incorporation of best practices into Virginia's temporary detention order law through comparison of other states laws.

The board wishes to ensure that these issues remain in the forefront of all those before the legislature as we move into the new biennium. If there are helpful ways we might highlight the need for these services, we are eager to support such efforts.

Sincerely,

Elizabeth Hilscher, Chair

Cc: The Honorable L. Louise Lucas

The Honorable Luke E. Torian The Honorable John Littel

Members, State Board of Behavioral Health and Developmental Services

Leah Mills Nelson Smith Meghan McGuire

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## TABLE OF CONTENTS

Introduction		6
	Board Membership	6
	Review of Statutory Authority	7
FY 2023 Acc	omplishments	9
	Area of Responsibility-A: Policy Development and Monitoring	9
	Area of Responsibility-B: Ensure the Development of Programs and Plans	9
	Area of Responsibility-C: Review and Comment on All Budgets and Requests	10
	Area of Responsibility-D: Adopt Regulations	10
	Area of Responsibility-E: Communication, Coordination & Collaboration	10
Summary and	l Next Steps	10
Appendices		11
	Appendix A: List of Current State Board Policies	11
	Appendix B: 2023 Annual Regulatory Status Report	13
	Appendix C: 2024 Meeting Schedule	15

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

#### 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's 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.

In 2023, quarterly meetings originally planned in 2020 for visits to agency facilities but postponed in those congregate settings during the pandemic were finally able to be held onsite. Thus, meetings were held in person and virtually at the following DBHDS facilities:

- March: Southwestern Virginia Mental Health Institute, Marion.
- July: Central State Hospital and Hiram Davis Medical Center, Petersburg.
- September: Piedmont Geriatric Hospital and the Virginia Center for Behavioral Rehabilitation, Burkeville.

The December meeting was held at the Central Office in Richmond. Some additional meetings and tours with area community services boards were held near some of the facility visits.

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;
- Kendall Lee, Lunenburg, Vice-Chair;
- The Hon. R. Blake Andis, Washington County;
- Varun Choudhary, Henrico;
- Rebecca Graser, Richmond County;
- Cindy Lamb, Stafford;
- 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 July 2023. It is noteworthy that the Board experienced a historic number of membership changes in three years for a majority of members, one in late 2019, three in 2020, one in 2022. A sixth appointment was made this year.

### **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 oremploying 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.
- 11. To ensure that the Department develops specific goals and objectives for the delivery of services to individuals with mental illness, developmental disabilities, or substance use disorders by community services boards and behavioral health authorities that are consistent with the purposes set forth in §§ 37.2-508 and 37.2-608 and that would enable the Board to advise the Governor, Commissioner, and General Assembly on matters related to community behavioral health and developmental services; and
- 12. To monitor the Department's performance regarding its regular, ongoing monitoring of community services boards' and behavioral health authorities' compliance with the performance contract requirements set forth in §§ 37.2-508 and 37.2-608 and to make recommendations, as applicable, to the Department regarding improvement of such monitoring activities.

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Virginia Addiction Recovery Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

# 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.

#### 2023 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 (<a href="http://www.dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS/bhds-policies">http://www.dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS/bhds-policies</a>). See the list of current State Board policies with the last review date attached as Appendix A.

In 2023, the Board reviewed and continues to revise the following policies:

- 1004(SYS)83-7 Prevention Services
- 1008(SYS)86-3 Services for Older Adults with Mental Health or Substance Use Disorders, Intellectual Disability, or Co-Occurring Disorders
- 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
- 1015(SYS)86-22 Services for Individuals with Co-Occurring Disorders
- 1023(SYS)89-1 Workforce Cultural and Linguistic Competency
- 1040(SYS)06-3 Consumer and Family Member Involvement and Participation
- <u>1043(SYS)08-1 Disaster Preparedness</u>
- 1044(SYS)12-1 Employment First
- 1036(SYS)05-3 Vision Statement
- 4010(CSB)83-6 <u>Local Match Requirements for Community Services Boards</u>

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

The 2022 Session of the General Assembly repealed § 37.2-315 of the *Code of Virginia*, which required the department to produce, and biennially update, a comprehensive six-year plan identifying services and supports needs of individuals with mental illness, developmental disabilities, or substance use disorders; propose strategies to meet those needs; and define resource requirements for behavioral health and developmental services. In the past, the State Board had played a role in the receipt of public comments on the draft plan and in reviewing drafts.

However, regardless of its previous role in the review of the Comprehensive State Plan, Item 2 of § 37.2-203 lists the powers and duties of the board including, '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...' Therefore, State Board members continue to receive regular updates on actions to address priorities, updates on funding, and major initiatives at every Board meeting. Topics in 2023 included those described in the cover letter of this report.

# 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 about agency budget submissions and ongoing detailed status reports for the 2023 Regular and Special Session I of the Virginia General Assembly, including the *Right Help*, *Right Now* initiative. The committee provided revisions to the draft priorities for the biennium and for board meeting updates through July 2025, and considered amendments to the Bylaws to comply with the Code of Virginia regarding virtual meetings.

# 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. With the appointment of the ninth seat, assignments of liaison areas were reviewed and updated. Within the DBHDS system, members of the Board were provided updates by DBHDS facility directors and community services board executive directors 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 that appropriate levels of engagement and information were in place for all areas of Board responsibility.

#### SUMMARY AND NEXT STEPS

Travel for quarterly board meetings resumed in March 2023 to agency facilities and local community services boards. Three more facilities will be visited in 2024. The full meeting schedule is in Appendix C.

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 scheduled review of all existing policies.

### APPENDIX A: LIST OF CURRENT STATE BOARD POLICIES (DECEMBER 2023)

## 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	Apr-23
1023(SYS)89-1	Workforce Cultural and Linguistic Competency	Jun-08	Apr-23
1016(SYS)86- 23	Policy Goal of the Commonwealth for a Comprehensive, Community-Based System of Services	Dec-18	-
1034(SYS)05-1	Partnership Agreement	Sep-18	Dec-21
1044(SYS)12-1	Employment First	Sep-19	Jul-22
1030(SYS)90-3	Consistent Collection and Utilization of Data in State Facilities and Community Services Boards	Apr-19	Dec-21
1035(SYS)05-2	Single Point of Entry and Case Management Services	Jul-13	-
1039(SYS)06-2	Availability of Minimum Core Services	Jul-13	-
1008(SYS)86-3	Services for Older Adults with Mental Illness, Mental Retardation, or Substance Use Disorders	Jul-13	Jul-22
1040(SYS)06-3	Consumer and Family Member Involvement and Participation	Jul-13	Jul-22
1038(SYS)06-1	The Safety Net of Public Services	Dec-13	-
1042(SYS)07-1	Primary Health Care	Dec-13	-
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-22
1043(SYS)08-1	Disaster Preparedness	Jul-14	Apr-23
1004(SYS)83-7	Prevention Services	Jul-14	Oct-23
1021(SYS)87-9	Core Services	Oct-16	-
1015(SYS)86- 22	Services for Individuals with Co-occurring Disorders	Oct-16	Oct-23
1036(SYS)05-3	Vision Statement	Dec-16	Oct-23
1007(SYS)86-2	Behavioral Health and Developmental Services for Children and Adolescents and Their Families	Apr-17	Apr-24
1028(SYS)90-1	Human Resource Development	Oct-20	Apr-25
2010(ADM)88- 2	Policy Development and Education	Apr-12	Jul-21
2011(ADM)88-	Naming of Buildings, Rooms and Other Areas at State Facilities	Dec-17	Jul-21

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

### APPENDIX B: 2023 ANNUAL REGULATORY STATUS REPORT (December 2023)

### **REGULATORY ACTIVITY: 2023 ACTION TAKEN**

		REGULATIONS IN PROCESS				
VAC CITATION	CHAPTER TITLE (FULL TITLE)	PURPOSE		STAGE		STATUS
12 VAC 35-46 Certain sections and NEW sections.	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.	•	Emergency effective 2/20/2021; extended to 02/18/2023. Final effective 02/17/2023
12 VAC 35-46 Certain sections and NEW sections.	same	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 to Standard.	•	Emergency effective 01/10/22; extended until 01/08/2024. Final effective 12/7/2023.
2 VAC 35-105 Certain sections	Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services	In accordance with Item 318.B. of the 2020 Appropriation Act, amendments to align with ASAM criteria.	•	Emergency to Standard.	•	Emergency effective 2/20/2021; extended to 02/18/2023. Final effective 02/17/2023.
2 VAC 35-105 Certain sections.	same	In accordance with Item 318.B. of the 2020 Appropriation Act, amendments to align with enhanced behavioral health services.	•	Emergency to Standard.	•	Emergency effective 2/20/2021; extended to 02/18/2023. Final effective 02/17/2023.
2 VAC 35-105 Certain sections and NEW sections.	same	In accordance with federal regulation, amendments for mobile medication assisted treatment programs in Virginia.	•	Exempt; change to Fast Track.	•	Exempt action filed 12/08/2022. Per OAG, action withdrawn and refiled as a fast track on 7/17/2023
2 VAC 35-180	Regulations to Assure the Protection of Participants in Human Research	To protect individuals who are participants in human research performed by facilities or programs operated, funded, or licensed by DBHDS	•	Periodic review.	•	Public comment forum closed 11/21/2022. Report of findings filed 2/17/2023.
2 VAC 35-190	Regulations for Voluntary Admissions to State Training Centers	To detail criteria and procedures for voluntarily admitting persons to a state training center. (see action below)	•	Fast Track.	•	Combined action to rescind filed 7/25/2023.

12 VAC 35-200	Regulations for Emergency	To establish the conditions and	•	Fast Track.	•	Combined action filed 7/25/2023.
	and Respite Care Admission to State Training Centers	procedures (see action above).				
12 VAC 35-225	Requirements for Virginia's Early Intervention System	To provide the requirements for Virginia's early intervention services system 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.	•	Fast Track.	•	Filed 10/19/2023.
12 VAC 35-230	Operation of the Individual and Family Support Program	In accordance with the mandate in Item 313.NN. of the 2022 Special Session 1 Appropriation Act to facilitate compliance with the U. S. Department of Justice's Settlement Agreement with Virginia by establishing criteria, annual funding priorities, and to ensure annual public input.	•	Emergency/ NOIRA and periodic review.	•	Emergency/NOIRA and periodic review filed 7/15/22; emergency effective on 01/19/2023 and expires on 07/18/2024. Proposed stage filed 7/13/2023; revised text filed and with OAG 9/29/2023.
12 VAC 35-250	Peer Recovery Specialists	Allows individuals to be designated as "peer recovery specialists" to have a pathway for the workforce to provide peer services through the Virginia ARTS benefit, which became available to Medicaid members receiving addiction treatment services at all levels of care	•	Periodic review	•	Initiated 12/8/2022. Report of findings filed 5/10/2023.
12 VAC 34-260	Certified Recovery Residences	To implement the changes in the Code of Virginia per HB 277/SB 622 (2022) regarding DBHDS certification, minimum square footage, and disclosure of credentialing entity.	•	Fast Track.	•	Filed 12/08/2022. Public comment forum 12/18/2023 - 1/17/2024, Expected effective 02/01/2024

### **Appendix C: 2024 Meeting Schedule**

### State Board of Behavioral Health and Developmental Services

### **2024 MEETING SCHEDULE**

DATE	Location
April 3	Catawba Hospital Catawba
July 17	Eastern State Hospital Williamsburg
September 25	Southern Virginia Mental Health Institute Danville
December 11	Central Office Richmond