COMMONWEALTH OF VIRGINIA
Office of the State Inspector General

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The Honorable Glenn Youngkin
Governor of Virginia
P.O. Box 1475
Richmond, VA 23219

Members of the Virginia General Assembly
1000 Bank Street
Richmond, VA 23219

Dear Governor Youngkin and Members of the Virginia General Assembly,

The 2024 Acts of Assembly, Chapter 638, directs the Office of the State Inspector General (OSIG) to "(i) develop a plan to fulfill its statutory obligation to fully investigate all complaints it receives alleging abuse, neglect, or inadequate care at a state psychiatric hospital and (ii) submit such plan to the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Education and Health by November 1, 2024."

Further § 2.2-309 (D) of the *Code of Virginia*, requires the Office to submit an annual report to the General Assembly on or before December 1 of each year regarding the number of such complaints received and the number of complaints that were fully investigated by the Office."

OSIG remains committed to continuing to fulfill its statutory obligations to investigate all submissions it receives alleging abuse, neglect, or inadequate care at state psychiatric hospitals as described in *Code of Virginia* § 2.2-309.1. OSIG operates a Healthcare Compliance Unit (HCU), a unit with little, if any, parallel in the United States.

Currently, the HCU team consists of three full-time Compliance Specialists and a Healthcare Compliance Manager. All team members are actively engaged in the complaint investigation process. The team travels extensively throughout the Commonwealth to the 12 Department of

Behavioral Health and Developmental Services (DBHDS) facilities to review, investigate, and respond to complaints. Additionally, the team also dedicates time and resources to conduct reviews of allegations against licensed providers, community services boards, the Richmond Behavioral Health Authority, and the behavioral health units within the Department of Corrections.

The existing HCU team is new to OSIG with three of its four members joining the agency within the last six months. A Compliance Specialist was hired at the end of February 2024, and the Manager came onboard at the end of March 2024. OSIG added an additional position to the HCU team, another Compliance Specialist, who joined at the end of September 2024. The 2024 Annual Report submitted to the General Assembly in late September highlights the most recent case data, tasks, and accomplishments of the unit and its current members.

To formulate the plan, OSIG leadership and the HCU team used various methods to gain a better understanding of existing processes and to identify growth opportunities. The methods included a systematic analysis of OSIG's existing processes, a review of the agency's available resources, and a review of the findings and recommendations presented in the 2023 Joint Legislative and Audit Review Commission report, as well as those of a study conducted by the Virginia Commonwealth University Performance Management Group in 2020. Further, the HCU Manager held listening sessions with OSIG staff and members from external agencies and departments, including staff within DBHDS. Upon completion of the analysis, the team used the findings to devise a trial intake process that is still in its testing phases. A brief overview of the process is presented below.

As part of the intake process, a HCU team member receives and reviews all complaints. Complaints can be received via calls, web submissions, voicemails, and in-person. All submissions are evaluated through a tiered internal review process. Intakes that meet the criteria for abuse, neglect, or inadequate care are keyed into OSIG's case management system, Pentana. Pentana allows OSIG to record the details of the incident, including date, time, and the details of the complaint. Those submissions meeting the criteria of abuse, neglect, and/or inadequate care as defined in *Code of Virginia*, § 37.2-100 and 12VAC35-105-20 are assigned to a specialist to conduct an internal review.

Requirements for facility/agency responses to OSIG inquiry vary and are dependent upon the severity of allegation(s) in each complaint. Currently, the unit is piloting a tiered severity process that is based on the Joint Commission's Sentinel Event policy, DBHDS DI 401- Risk Management Policy, as well as literature from Centers for Medicaid and Medicare Services (CMS), as defined below:

- Tier I – Immediate Jeopardy to Health or Safety – events that have caused or are likely to cause serious injury, harm, impairment, or death.

- Tier II – Complaints that meet *Code* definitions of abuse or neglect and require reporting to the Protection and Advocacy Incident Reporting System (PAIRS) and Disability Law Center of Virginia (DLCV) within 48 hours of discovery.
- Tier III – Expected deaths due to medical sequelae, complaints of abuse or neglect with treatment specific parameters (e.g. diet requests, room changes, privilege levels changes).

The HCU manager reviews and approves all unit inquiries to assure the complaint is placed in the appropriate tier and that information requested of the facility addresses the issues in the complaint. Facilities have 14 days to respond to requests for information for those submissions that meet Tiers II and III criteria. Submissions that meet Tier I criteria require a response within 24 hours of receipt of the allegation(s). It is the practice of the unit to contact the facility immediately in the event of a Tier I submission.

Complaint reviews are conducted in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspectors General*. Reports are generated when the complaint investigation is substantiated, with findings and recommendations to address the issues unless the findings have already been addressed.

Additionally, the *Code* requires a report of the numbers of complaints received and investigated each fiscal year. In Fiscal Year 2024 (July 1, 2023 – June 30, 2024), prior to the effective date of the plan and reporting requirements, the HCU processed 501 constituent submissions alleging abuse, neglect, or inadequate care at DBHDS operated facilities. Of those, the unit assigned 313 for internal review and investigation. The remaining 188 cases processed did not rise to the level of internal review. The unit also received and processed 977 constituent submissions that did not meet the criteria of the *Code* mandates, referring those relevant to other agencies or units as necessary.

This work plan and associated processes will continue to be reviewed and revised and serve as a strategic road map for activities initiated during Fiscal Year 2025. The plan includes a selection of site visits and inspections to maximize benefits to the citizens of the Commonwealth and those charged with its governance.

Please contact me should you have any questions.

Sincerely,

Michael C. Westfall, CPA
State Inspector General

cc: The Honorable John Littel, Chief of Staff to Governor Youngkin
Tiffany Robinson, Deputy Chief of Staff to Governor Youngkin
Division of Legislative Automated Systems § 30-34.15
The Honorable Mark D. Sickles, Chair, House Committee on Health and Human Services
The Honorable Kathy Tran, Vice-Chair, House Committee on Health and Human Services
The Honorable Ghazala F. Hashmi, Chair, Senate Committee on Education and Health