



COMMONWEALTH of VIRGINIA

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COMMISSIONER

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November 1, 2025

To: The Honorable Glenn Youngkin, Governor of Virginia
The Honorable Winsome Earl-Sears, Lieutenant Governor of Virginia
The Honorable L. Louise Lucas, Chair, Senate Finance & Appropriations Committee
The Honorable Luke E. Torian, Chair, House Appropriations Committee

From: Nelson Smith, Commissioner, Department of Behavioral Health and Developmental Services (DBHDS)

RE: § 37.2-314.3 of the Code of Virginia

§ 37.2-314.3 directs the Department of Behavioral Health and Developmental Services (DBHDS) to create a Supported Decision-Making Agreement (SDMA) template for use by individuals with intellectual and developmental disabilities, develop and provide education regarding the development and use of SDMAs, develop information and protocols related to preventing, identifying, and addressing abuse and exploitation of individuals using SDMAs, and to collect data regarding the use of SDMAs in Virginia. The language reads:

B. The Department shall develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement. Such program shall include (i) specific training opportunities for individuals with intellectual and developmental disabilities and who seek to enter into supported decision-making agreements, individuals interested in serving as supporters pursuant to supported decision-making agreements, family members of principals and individuals with intellectual and developmental disabilities who seek to enter into supported decision-making agreements, and members of the medical, legal, and financial professions and other individuals who provide services to individuals with intellectual and developmental disabilities who may enter into supported decision-making agreements and...Such program shall also include development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements.

C. The Department shall collect data regarding the utilization of supported decision-making agreements in the Commonwealth to guide the development of policies and programs to enhance the use of supported decision-making agreements and shall report such information together with recommendations to enhance the utilization of supported decision-making agreements annually to the Governor and the General Assembly by November 1.

In accordance with this item, please find enclosed the combined report which provides details of the implementation and use of SDMAs in Virginia, the education and training conducted during fiscal year 2024, as well as recommendations to enhance the utilization of SDMAs in Virginia.

CC: The Honorable Janet V. Kelly, Secretary of Health and Human Resources



Virginia Department of Behavioral Health
and Developmental Services

Annual Report on
Supported Decision-Making Agreements
(§ 37.2-314.3 of the Code of Virginia)

November 1, 2025

A Life of Possibilities for All Virginians

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Introduction

Virginia has studied supported decision-making in 2014, 2019, and, again, in 2020. In 2022 the Department of Behavioral Health and Developmental Services (DBHDS) created a workgroup to help with the development of the supported decision-making agreement (SDMA) template and protocol to address abuse and exploitation of individuals using SDMAs. Since then, DBHDS has focused on increasing the public's awareness of supported decision-making and SDMAs throughout Virginia by conducting trainings and building partnerships with stakeholders who interact with individuals with intellectual and developmental disabilities (IDD). From July 2024 through June 2025 (fiscal year 2025) 29 training sessions were conducted, reaching over 1,750 individuals with IDD, parents/caregivers/ family members of individuals with IDD, practitioners, educators, waiver providers, those in the medical field, and more.

Training sessions covered the following topics:

- An Overview of Supported Decision-Making and Supported Decision-Making Agreements
- An Overview of Decision-Making Options in Virginia
- Risk and Supported Decision-Making
- Supported Decision-Making and Ethics

Additionally, the following recommendations remain from the 2022 Supported Decision-Making Workgroup and feedback from constituents and stakeholders over the past fiscal year:

1. Explore other sources for data collection.
2. Make recommendations for updating the existing Virginia Code § 37.2-314.3 to reflect more person-centered wording and clarify roles and responsibilities of each member of an SDMA.
3. Make recommendations for expanding codification of SDMAs in the form of an SDM Act, similar to other states, in order to expand the use of SDMAs to other disability populations.
4. Ensure written information and forms are available in other languages, different reading levels, and in alternate formats to increase accessibility and utilization.
5. Investigate the implementation of a uniform tool for capacity evaluations.
6. Explore the implementation of a volunteer Supporter program.

Supported decision-making and SDMAs are an integral piece to increasing autonomy and self-determination for individuals with disabilities. Continuing to provide education and training and removing barriers to the use of supported decision-making and SDMAs as opposed to more restrictive alternatives, will play an important part in increasing utilization. Additionally, continued outreach and training targeted to those who interact with or support individuals with disabilities, will help more individuals live independent, person-centered lives.

Background

Chapter 855 of the 2020 Acts of Assembly directed DBHDS to organize a workgroup to further study the use of SDMAs in Virginia. The Workgroup met during 2020 and provided findings and recommendations to the Chairs of the Senate Committee of the Judiciary and the House Committee on Health, Welfare, and Institutions. Most notably, the Workgroup developed four core principles for supported decision-making for Virginia¹. They are as follows:

1. Every individual should be presumed capable of making his or her own decisions.
2. When an individual requires assistance in making decisions, the least restrictive option that meets the individual's needs should be pursued, and every effort should be made to maximize an individual's autonomy and independence.
3. Supporters, guardians, substitute decision-makers, and other agents should always consider an individual's expressed personal preferences to the extent appropriate.
4. Making good decisions takes practice and individual growth. Everyone should have the opportunity to learn and grow from making their own decisions, sometimes called "Dignity of Risk." Risky decision-making should not be motivation for restricting an individual's rights through guardianship or substitute decision-making.

In 2022, DBHDS convened a workgroup to help with processing and developing the directives laid out in HB 2230 (2021). The 2022 Supported Decision-Making Workgroup was made up of individuals from various state agencies, advocacy organizations, self-advocates, and family members of individuals with developmental disabilities, and used the principles from the 2020 Workgroup as a guide. Workgroup members created the Virginia SDMA template, Discovery Tools, and supplemental documents, which were the focus of the majority of trainings throughout fiscal year 2023, 2024, and 2025. Additionally, the Workgroup agreed on the following goals for SDMAs in Virginia²:

1. People with intellectual and developmental disabilities (IDD) in Virginia will display maximum self-determination through supported decision-making agreements as the first option before guardianship is considered.
2. Virginians will be less reliant on guardianship for individuals with developmental disabilities (including intellectual disabilities) once supported decision-making agreements are available.
3. People with developmental disabilities (including intellectual disabilities), their families, and other community members, will have increased knowledge related to supported decision-making and supported decision-making agreements compared to other decision-making options.

¹ "Report on Senate Bill 585, Supported Decision Making Workgroup Report". Virginia Department of Behavioral Health and Developmental Services. October 2020.

² "Report on House Bill 2230, Supported Decision-Making Report". Virginia Department of Behavioral Health and Developmental Services. November 2022.

Education and Training

One of the directives of § 37.2-314.3 is that DBHDS develop and provide education on the creation and use of SDMAs for individuals with intellectual and developmental disabilities, their families, and members of any profession that provides services to individuals with intellectual and developmental disabilities, including those in the legal, financial, and medical fields. The 2022 SDMA Workgroup also identified additional key audiences for education and training, including community services boards (CSBs), Developmental Disability (DD) Waiver providers, other state agencies, educators, public and private legal guardians, and anyone interested in or serving as a Supporter.

Throughout FY 2025, a total of 29 training sessions and presentations were conducted across Virginia, reaching an estimated 1,750 individuals. The exact number is likely higher due to multiple people accessing virtual sessions through shared accounts and some sessions being livestreamed. The target audience includes individuals with intellectual and developmental disabilities, their parents, caregivers and family members, CSBs, service providers, and professionals working in education, mental health, aging, law, finance, and medicine.

Training sessions covered:

- An Overview of Supported Decision-Making and Supported Decision-Making Agreements
- An Overview of Decision-Making Options in Virginia
- Risk and Supported Decision-Making
- Supported Decision-Making and Ethics

Collaborations and Partnerships

In FY 2025, DBHDS engaged with numerous organizations and agencies to build partnerships aimed at increasing awareness and promoting the use of SDMAs across Virginia. Twelve of the training sessions were hosted by DBHDS as part of an annual virtual training initiative and the remaining sessions were hosted by various external offices, agencies, and organizations.

DBHDS collaborated with the following partners to host trainings, presentations, and other opportunities to share information and resources about supported decision-making:

- All Needs Planning
- The Arc of Virginia
- The Arc of Warren County
- Autism Society Tidewater Virginia
- The Disability Law Center of Virginia (dLCV)
- Fauquier County Public Schools
- Hanover County Public Schools
- Henrico Area Mental Health and Developmental Services (HAMHDS)
- I'm Determined (sponsored by the Virginia Department of Education (VDOE) and the VCU Partnership for People with Disabilities)

- Loudoun County Bar Association
- Northstar
- The Parent Educational Advocacy Training Center (PEATC)
- Region 4 (Central Virginia CSBs)
- Rotary Club of McLean
- Virginia Board for People with Disabilities (VBPD)
- Virginia Department of Medical Assistance Services (DMAS)
- World Elder Abuse Awareness Day Planning Committee
- DBHDS's Individual and Family Support Program's (IFSP) State Council
- DBHDS's Office of Human Rights
- DBHDS's Regional Quality Councils (RQCs)

Information and resource sharing activities are summarized below:

DBHDS staff co-presented at an international conference for The Learning Community for Person Centered Practices' (TLCPCP) Annual Gathering, to share information about supported decision-making and its relationship to risk. A condensed version of this presentation was later delivered at the DBHDS Regional Quality Council Annual Summit.

DBHDS partnered with the disAbility Law Center of Virginia (dLCV) and the Loudoun County Bar Association to conduct a free, in-person training for lawyers on supported decision-making and the ethics of representing people with limited capacity. Attendees were able to receive credit towards their annual Continuing Legal Education (CLE) requirement. Through connections made at this training, DBHDS delivered a presentation to members of the Rotary Club of McLean, which included professionals in a variety of fields, including law, finance, and social work.

DBHDS participated in a variety of local school district and statewide information sessions and resource fairs, including partnering with Fauquier County Public Schools' Transitions School to provide a day of education and discussion around decision-making for their students.

DBHDS provided technical assistance to Community Services Boards (CSBs), DD Waiver providers, and advocacy organizations throughout FY 2025 on supported decision-making, SDMA, and other decision-making options. DBHDS also provided consultation and assistance with completing the Discovery Tools and creating SDMA. DBHDS continues its work building collaborations and partnerships to provide targeted education to professionals in the medical, legal, and financial fields on supported decision-making and SDMA.

Supported Decision-Making Utilization

Understanding how SDMA are used in Virginia is important to identifying barriers and improving the focus of education, training, and outreach efforts. However, data on SDMA utilization in Virginia remains limited. The Virginia SDMA template became publicly available on July 15, 2022. Although individuals could create SDMA prior to this date, there was no standardized way to collect data on its use. DBHDS identified currently available methods of collecting SDMA utilization data described below and continues to work on identifying and/or developing other methods of data collection.

Virginia Waiver Management System (WaMS)

DBHDS collects demographic, service, and decision-making representation data for individuals on the Developmental Disabilities Waivers (DD Waivers) and those on the DD Waivers Waiting List through the online Waiver Management System (WaMS). As of July 2025, there were 18,682 individuals receiving DD Waiver services, of whom 17,508 were 18 or older. Additionally, 14,103 individuals were on the DD Waivers waiting list, including 6,312 adults.³

The scope of data available in WaMS varies depending on whether an individual is receiving a DD Waiver or is on the waiting list. Information about whether an individual has an SDMA is collected in the Person-Centered Individual Support Plan (PC ISP) within WaMS. Currently, only individuals with a DD Waiver are required to have a PC ISP in WaMS, which limits DBHDS’s ability to collect SDMA utilization data on the waiting list population.

The tables below show the FY 2025 data on the number of individuals with SDMAs, by quarter and age group, types of decision-making support received, supporter satisfaction with SDMAs, and the number of individuals not currently utilizing SDMAs, but who have expressed interest. This analysis includes ISPs with effective dates between July 1, 2024 and June 30, 2025.

Table 1. Number of ISPs with Effective Dates from July 1, 2024- June 30, 2025

Age of individuals with ISPs with effective dates within data range	FY 2025 Q1	FY 2025 Q2	FY 2025 Q3	FY 2025 Q4	Total	Percent
≤17 years old	214	283	275	316	1,088	6.19%
≥18 years old	4,192	3,932	3,958	4,401	16,483	93.81%
Total	4,406	4,215	4,233	4,717	17,571	100%
Percent	25.07%	24.00%	24.09%	26.84%	100%	N/A

Table 2. FY 2025 Q1 Decision-Making Support; 18 years old and older

Type of Decision-Making Support	Total	Percent
None	1,259	30.03%
Supported Decision-Making Agreement only	8	0.19%
Supported Decision-Making Agreement with Other*	59	1.41%
Other*	784	18.70%
Legal Guardianship only	1,889	45.06%
Legal Guardianship with Other*	108	2.58%
Selected options not possible to combine**	85	2.03%
Total	4,192	100%

*Represents one or a combination of the following decision-making options: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative.

** Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian.

Table 3. FY 2025 Q2 Decision-Making Support; 18 years old and older

³ “Waiver Management System (WaMS) Report”. Virginia Department of Behavioral Health and Developmental Services. July 2025.

Type of Decision-Making Support	Total	Percent
None	1,094	27.82%
Supported Decision-Making Agreement only	6	0.15%
Supported Decision-Making Agreement with Other*	46	1.17%
Other*	823	20.93%
Legal Guardianship only	1,786	45.42%
Legal Guardianship with Other*	93	2.37%
Selected options not possible to combine**	84	2.14%
Total	3,932	100%

**Represents one or a combination of the following decision-making options: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative.*

*** Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian.*

Table 4. FY 2025 Q3 Decision-Making Support; 18 years old and older

Type of Decision-Making Support	Total	Percent
None	1,110	28.04%
Supported Decision-Making Agreement only	6	0.15%
Supported Decision-Making Agreement with Other*	34	0.86%
Other*	875	22.11%
Legal Guardianship only	1,788	45.17%
Legal Guardianship with Other*	91	2.30%
Selected options not possible to combine**	54	1.37%
Total	3,958	100%

**Represents one or a combination of the following decision-making options: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative.*

*** Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian.*

Table 5. FY 2025 Q4 Decision-Making Support; 18 years old and older

Type of Decision-Making Support	Total	Percent
None	1,165	26.47%
Supported Decision-Making Agreement only	8	0.18%
Supported Decision-Making Agreement with Other*	31	0.71%
Other*	927	21.06%
Legal Guardianship only	2,116	48.08%
Legal Guardianship with Other*	103	2.34%
Selected options not possible to combine**	51	1.16%
Total	4,401	100.00%

**Represents one or a combination of the following decision-making options: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative.*

*** Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian.*

Table 6. FY 2025 SDMA Satisfaction with Supporters

If the individual has an SDMA, Is the individual satisfied with their Supporter(s)?	FY 2025 Q1	FY 2025 Q2	FY 2025 Q3	FY 2025 Q4	Total	Percent
Yes	67	52	40	39	198	100%
No	0	0	0	0	0	0%
Did not answer	0	0	0	0	0	0%
Total	67	52	40	39	198	100%

Table 7. FY 2025 Interest in creating an SDMA

If the individual does not have an SDMA, is the individual interested in developing a supported decision-making agreement?*	FY 2025 Q1	FY 2025 Q2	FY 2025 Q3	FY 2025 Q4	Total	Percent
Yes	200	221	192	178	791	9.85%
No	1,843	1,696	1,793	1,908	7,240	90.15%
Did not answer	0	0	0	0	0	0.00%
Total	2,043	1,917	1,985	2,086	8,031	100.00%

*Represents individuals eligible to create a Supported Decision-Making Agreement (i.e. at least 18 years old and do not have a legal guardian).

Recommendations

Recommendation Updates

DBHDS continues to enhance the Supported Decision-Making webpage on its website. Recent updates include video recordings, presentations from training sessions, and printable/downloadable information resources. Planned improvements will focus on using accessible language and offering materials in different formats to ensure accessibility.

The following recommendations are compiled from the 2022 SDMA Workgroup and feedback from stakeholders during the reporting period.

1. Explore Other Sources for Data Collection

Develop an ADA-Compliant, State-Hosted Standalone SDMA Website

The Workgroup and stakeholders recommended creating a centralized, Americans with Disabilities Act (ADA)-compliant, state-hosted SDMA website. The website would offer clear, easy to understand information in one location and improve access for individuals

with disabilities and their families. It would host electronic versions of printed information, recorded trainings, and tutorial videos, and resources tailored to the professionals identified in the Code. The Workgroup also recommended that DBHDS explore the cost and practicality of adding interactive tools that allow individuals with DD to easily create, digitally sign, print, download, and share their SDMA templates. The website could also collect data such as:

- Number of new or updated SDMAs
- Identity of SDMA creators
- Number of website and page visits

This data would help identify usage trends, barriers faced by specific populations, and inform future recommendations.

Explore External Data Sources

The Workgroup also recommended exploring external data sources to enhance SDMA utilization tracking and public awareness of SDMAs. Potential collaborations to explore in the future include:

- Department of Aging and Rehabilitative Services (DARS) - Add questions to DARS tools to determine whether individuals have an SDMA, use Supporters, and collect any relevant data during Adult Protective Services reports.
- DMAS - Add data elements to the Quality Management Review tool for CSBs to validate information collected in WaMS.
- DBHDS Human Rights portal - Include a question in the demographics section to indicate whether an individual has an SDMA.

These efforts aim to improve data collection, increase public familiarity with SDMAs, and support informed decision-making across various service settings.

2. Consider Updates to the Code of Virginia

The Workgroup and stakeholders recommended revisions to § 37.2-314.3. to promote more person-centered language, clarify roles, and reduce barriers to identifying Supporters:

Replace “Principal” with “Decision Maker”

Update the term and definition to: “Decision Maker” means an adult with an intellectual or developmental disability who seeks to enter into or has entered into a supported decision-making agreement with a Supporter.

Revise the definition of “Supported Decision-Making Agreement”

Clarify the agreement as “An agreement between a *Decision Maker* and a Supporter that sets out the specific terms of support to be provided by the Supporter, including (i) helping the *Decision Maker* monitor and manage his medical, financial, and other affairs; (ii) assisting the *decision maker* in accessing, obtaining, and understanding information relevant to decisions regarding his affairs; (iii) assisting the *Decision Maker* in understanding information, options, responsibilities, and consequences of decisions; and

(iv) ascertaining the wishes and decisions of the *Decision Maker* regarding his affairs, assisting in communicating such wishes and decisions to other persons, and advocating to ensure the wishes and decisions of the *Decision Maker* are implemented, *as decisions made by the Decision Maker are legally enforceable.*”

Update the definition of “Supporter”

Define a “Supporter” as “A person who has entered into a supported decision-making agreement with a *Decision Maker*. *A Supporter shall not be held liable for the decisions made by the Decision Maker based on their advice, except in cases of gross or intentional negligence.*”

3. Expand Codification for the use of SDMAs

SDMAs increase self-determination and health outcomes across all disabilities. The Workgroup recommended expanding codification of SDMAs through a Supported Decision-Making Act, similar to legislation in other states⁴. This would broaden the use of SDMAs beyond DBHDS and extend eligibility to all individuals with disabilities, regardless of disability type or diagnosis.

4. Improve Information Accessibility

While several SDMA materials (e.g. instructions, FAQs, Discovery Tools, and the Virginia SDMA template) have been translated into Spanish, many educational resources are still unavailable in other languages or accessible formats.

Recommendations from the Workgroup and stakeholders include:

- Translating all written information and forms into English and Spanish at a minimum and providing them in accessible formats.
- Providing closed captioning and/or sign language interpretation for training videos,
- Creating a picture and word SDMA template to support individuals with varying literacy levels.
- Developing a mobile app to allow Decision Makers to create, update, store, and share their SDMAs easily.

These improvements would enhance accessibility for individuals with vision or hearing impairments and promote equity across Virginia’s diverse communities.

5. Investigate a Uniform Capacity Assessment Tool

Under 12VAC35-115-145 of the Virginia Administrative Code, “*Determination of capacity to give consent or authorization*” courts require proof of incapacity before appointing a guardian or conservator. However, the current code lacks guidance on preferred assessments or documentation, leading to inconsistent evaluation across the state. Given the same set of circumstances, the outcome of a capacity evaluation may vary depending on the staff who administered it and how it was documented. For that reason, the Workgroup recommends exploring the implementation of a standardized

⁴ Examples of other states with enacted Supported Decision-Making Acts include Texas (2015), Nevada (2019), New Mexico (2023), Rhode Island (2019), and Washington D.C. (2018).

capacity assessment tool to ensure consistency in evaluating an individual's capacity. This would reduce subjectivity and support more fair decisions when an individual's capacity is questioned, especially when more restrictive alternatives are being considered that will remove an individual's civil rights.

6. Explore a Volunteer Supporter Program

Natural supports⁵ help individuals with disabilities increase their independence and improve their quality of life. However, many individuals lack these supports and are instead referred to Virginia's public guardianship program. The Workgroup recommended developing a Volunteer Supporter Program to assist individuals with limited or no natural supports, in creating and using SDMAs. This program could:

- Serve as a less restrictive alternative to public guardianship
- Be piloted in specific geographic areas or integrated into existing state programs
- Require a fiscal impact study to assess feasibility and cost-effectiveness

Conclusion

Supported decision-making and SDMAs are vital tools for enhancing increasing autonomy and self-determination among individuals with disabilities. While Virginia has made progress in promoting SDM and SDMAs, further action is needed to expand access and usage of SDMAs statewide.

Key next steps include:

- Continuing education for individuals with disabilities, and professionals in education, law, finance, and healthcare.
- Removing information access barriers through a state-hosted standalone Americans with Disabilities Act (ADA) compliant website, mobile apps, and accessible materials.

Widespread adoption of SDMAs will help make Virginia a more inclusive state by ensuring that individuals with disabilities are empowered to make their own decisions and are recognized as capable, contributing members of their communities.

⁵ Natural supports are personal relationships or associations, such as family and friends, which are developed in the community and enhance a person's quality of life.