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March 21, 2013

James W. Stewart, III, Commissioner
Department of Behavioral Health and Developmental Services
P.O. Box 1797
Richmond, Virginia 23219-1747

Dear Mr. Stewart:

On behalf of the Virginia Board for People with Disabilities (VBPD), I am providing comments on the following Board of Behavioral Health and Developmental Services (BHDS) Board policies under review:

- Policy 1029 (SYS) 90-2, Definition of Serious Mental Illness, Serious Emotional Disturbance and At-Risk of Serious Emotional Disturbance;
- Policy 1035 (SYS) 05-2, Single Point of Entry and Case Management Services; and
- Policy 1037 (SYS) 05-4, Individual Consumer Information and the Community Consumer Submission.

We have no comment on Policy 1030 (SYS) 90-3, Consistent Collection and Utilization of Data in State Facilities and Community Services Boards.

VBPD first recommends two general language changes for each policy. The Department of Behavioral Health and Developmental Services (DBHDS) working with the BHDS Board has made significant progress towards more person-centered language in recent years. To further progress we recommend that the following changes be made:

- Replace the term “mental retardation” with either “intellectual disability (ID)” or “intellectual/ developmental disability (ID/DD),” as applicable in the policies and the Core Services Taxonomy.

- Eliminate the term "consumer" in reference to any individual served within the DBHDS system and replace with one of the following, as applicable: "individual" or "individual being served". In all policies, the explicit focus should be on the individual first. Policy 1037, for example, uses terms such as "adult" or "child" or "adult (child) being served".

Additional comments are provided by policy as follows.

Policy 1029(SYS) 90-2:

- Page 1, Background - VBPD recommends adding language on the importance of having consistent definitions to ensure reliable, valid data from all entities within the DBHDS system as critical to accountability efforts and service planning.

- Page 2, under Policy, Definition of Serious Emotional Disturbance – This definition states that SED can be diagnosed under the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) or "meets specific functional criteria" identified in the Core Services Taxonomy. A review of the Taxonomy 7.2 now available at the DBHDS website (Appendix A, p.30, 3/25/29 edition) indicates a discrepancy with the Policy, in that the Taxonomy still identifies the DSM IV, rather than current edition, in defining SED disorders. This inconsistency is likely to cause confusion in coming months as the DSM V is scheduled to be published in May. Since we are not aware as to whether a review of the Taxonomy is planned or in process, VBPD recommends that DBHDs prioritize review and update of the Core Services Taxonomy 7.2 in the immediate future.

Policy 1035 (SYS) 05-2:

- Pages 1 &2, under References & Background – We are concerned that the major reports cited are extremely dated. The most recent citation for state studies regarding mental health and intellectual disorders cited is the 1986 state Commission on Deinstitutionalization. It seems unlikely that there been no major legislative studies or Commissions in the past 26 years that address the design of the service system and the role of CSBs within it. If so, they should be cited. The landscape for publicly funded services has changed significantly in the past 26 years, especially in regards to Medicaid services, and continues to change. Medicaid has opened new options and choices in service providers. Some acknowledgement of these changes is recommended.

- Page 2, under Purposes – This sections states the policy intent to "… preserve the status of CSBs as the only approved providers of Medicaid mental health and mental retardation case management services." Later on page 2, under Policy, this stance is repeated ("Department and CSBs shall work with the Department of Medical Assistance Services to preserve the status of CSBs as the *only approved* [italics added for emphasis] providers …").

  The Board deeply respects the work and the invaluable role of the CSBs. VBPD has and continues to support the role of the CSBs as the single point of entry into publicly funded behavioral health, intellectual disability and substance abuse services. However, the Board disagrees with maintaining the designation in state policy of CSBs as the only approved provider of case management services. DBHDS is now designated as the Commonwealth's

Developmental Disabilities (DD) agency and was given the legislative authority for coordinating and planning services for individuals with developmental disabilities, including Autism Spectrum Disorders (ASD). At the time Policy 1035 was adopted, that authority did not exist. Now that DBHDS has a broader mandate, it is important to clarify whether this and other policies apply to the broader population of persons with developmental disabilities or just those with intellectual disabilities.

A significant number of individuals with ASD or DD without a concurrent diagnosis of ID receive services under the Developmental Disabilities waiver which provides choice in case management through a network of private providers. Although the DD Waiver is currently administered by the Department of Medical Assistance Services, DBHDS has assumed a greater leadership role in planning developmental disability services. Individuals with DD, their family members, and advocates continue to voice a strong desire for options in case management, including targeted case management, and for clear boundaries between case management and direct services. Moreover, over the past 20 years there has been an increasing pattern of the Commonwealth shifting more health and behavioral health services to Medicaid along with a decrease in direct state funding. Along with possible Medicaid expansion in Virginia, that trend means that the term "publicly funded" has much broader impact which should be recognized.

Through past recommendations in the various editions of the report, *Assessment of Disability Services System in Virginia*, VBPD has supported, and continues to support provider choice in all services, including case management. The Commonwealth, under the Settlement Agreement with the U.S. Department of Justice and through a wide array of DBHDS, Medicaid, and other interagency initiatives, continues to have important discussions about how to most effectively and efficiently administer, deliver, and pay for services. As part of these efforts, a critical study of waiver design is about to take place which will of necessity include an examination of how case management services are delivered.

The timing alone thus makes it imprudent to reinforce the designation of a sole provider of case management services. VBPD recommends that the DBHDS Board defer action on this policy at least until the Waiver study is complete and decisions have been made regarding waiver redesign. During this process significant stakeholder input should be sought.

Policy 1037 (SYS) 05-4:

Page 2, under Policy - VBPD recommends adding language on the importance of consistency in use of these definitions for quality assurance, accountability and for meaningful, reliable data on outcomes. While the need for data for monitoring is articulated in the first paragraph, more emphasis on consistent application of the definitions is indicated. Adding Policy 1030 (SYS) 90-3 to the Reference section should be considered.

We appreciate this opportunity to provide input on these policies. Please contact me if you have any questions or need additional information. I can be contacted by phone at (804) 786-9369 or by e-mail at Heidi.Lawyer@vbpd.virginia.gov.

Sincerely,

Heidi L. Lawyer

Cc: Olivia Garland, Deputy Commissioner, DBHDS
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Lee Price, Director, Office of Developmental Services, DBHDS
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John Kelley, Chair, VBPD