



Executive Summary

2022

Report Document #63

Commonwealth of Virginia

Behavioral Health Commission

Membership

Senator R. Creigh Deeds, Chair

Delegate John G. Avoli

Senator George L. Barker

Delegate Robert B. Bell

Delegate Emily M. Brewer

Delegate Tara A. Durant

Senator Barbara A. Favola

Senator Emmett W. Hanger Jr.

Delegate Patrick A. Hope

Senator T. Montgomery "Monty" Mason

Delegate Sam Rasoul

Delegate Vivian E. Watts

Staff

Nathalie Molliet-Ribet, Executive Director

Sarah Stanton, Chief Policy Analyst

Claire Pickard Mairead, Associate Policy Analyst

Agnes Dymora, Office Manager/Executive Assistant

Purpose

The Commission is established in the legislative branch of state government for the purpose of studying and making recommendations for the improvement of behavioral health services and the behavioral health service system in the Commonwealth to encourage the adoption of policies to increase the quality and availability of and ensure access to the full continuum of high-quality, effective, and efficient behavioral health services for all persons in the Commonwealth. In carrying out its purpose, the Commission shall provide ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth, including monitoring and evaluation of established programs, services, and delivery and payment structures and implementation of new services and initiatives in the Commonwealth and development of recommendations for improving such programs, services, structures, and implementation.



The Honorable Glenn Younkin
Governor of Virginia
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Members of the Virginia General Assembly
Pocahontas Building
Richmond, Virginia 23219

Dear Governor Younkin and Members of the General Assembly:

Please find enclosed the executive summary of the Behavioral Health Commission. This report, which summarizes the activities of the Commission in 2022, fulfills the requirements of § 30-407 of the Code of Virginia.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Creigh Deeds". The signature is written in a cursive, flowing style.

R. Creigh Deeds, Chair

2022 BHC Executive Summary

The General Assembly authorized the Behavioral Health Commission (BHC) in 2021 through the Code of Virginia, [Title 30, Chapter 63](#). The BHC is charged with encouraging the adoption of policies and making recommendations that will provide Virginians with access to a full continuum of high-quality and efficient behavioral health services. The Commission also provides ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth by monitoring and evaluating established programs, services, delivery and payment structures, and the implementation of new services and initiatives in the state.

The BHC conducted the following activities in 2022 to accomplish its mission.

Staff reports

During 2022, the BHC staff completed and briefed two studies that included several policy options. BHC members voted during the December meeting on the options they wished to support as a Commission.

Services for individuals introducing evidence of mental condition at trial

The study yielded background information and statistics on the use of the recently enacted rule of evidence pursuant to HB 2047 (2021, Bourne) and SB 1315 (2021, McClellan). The study found that Virginia currently lacks a legal mechanism to require individuals who introduced evidence of mental health conditions during a criminal trial to participate in services for their condition after they have been found “not guilty”. Three non-mutually exclusive options were provided to:

1. Create a new civil process for requiring outpatient evaluation and treatment for those individuals at risk of substantial deterioration;
2. Direct CSBs to make available to the court information about the services they offer, and for the court to provide this information to defendants;
3. Clarify whether the new rule of evidence pertains strictly to specific intent crimes or whether it also includes general intent offenses.

Competency restoration for defendants charged with misdemeanors

This study described trends in the increase of forensic patients placed in state hospitals to receive competency restoration services and found that this trend led to a reduced inpatient capacity for civil TDO patients and contributed to the bed crisis experienced in Virginia. The study included information on the factors that have contributed to the increase in forensic and competency restoration patients in state hospitals, how other states have tried to address the increase in competency restoration patients, as well as the

issues raised about the implementation of SB 198. Three non-mutually exclusive policy options were presented to improve the implementation of SB 198:

1. Require evaluators to include a recommendation on whether a defendant ought to be evaluated for TDO eligibility;
2. Dismiss charges only after a TDO evaluation has taken place;
3. Adopt a mechanism to enforce an evaluation order if the person fails or refuses to cooperate with the CSB and undergo evaluation.

Commission meetings

The Behavioral Health Commission met eight times during 2022. Below is a list of all meeting dates. In addition to BHC staff presentations, numerous stakeholders were asked to brief members throughout the year. All staff and stakeholder presentations, as well as meeting minutes and full videos of the meetings can be found on the [BHC website](#).

- April 26
- May 17
- June 14
- July 26
- September 20
- October 18
- November 14
- December 13

Legislative options and recommendations

During the December meeting, members voted on recommendations and options listed below (full descriptions as originally drafted can be found [here](#)) for introduction during the 2023 legislative session.

JLARC- CSB Behavioral Health Services

- A – H, K, N, O were unanimously approved by all members present.
- I, J, L, M will be redrafted and presented to the members during the January 2023 meeting for further discussion.

JLARC- Pandemic Impact on Public K-12 Education

- 1-3 were unanimously approved by all members present.

BHC study- Services for individuals introducing evidence of mental condition at trial

- 4-6 (options) were deferred for discussion during the January 2023 meeting.

BHC study- Competency restoration for defendant charged with misdemeanors

- 7-9 (options) were voted to be combined into one bill.

BHC other

- 10-13 were unanimously approved by all members present.

Other Staff Activities

The BHC staff participated in several workgroups including:

- Workgroup to restructure DBHDS, as mandated in the 2022 Appropriations Act
- Workgroup to increase the use of alternative custody agreements, as mandated by 2022 Legislation
- Prompt Placement TDO Taskforce

Staff also tracked and presented to the Commission longitudinal metrics related to state inpatient facilities. BHC staff also presented to the Virginia Association of Local Human Services Officials (VALHSO) in September 2022.

