

Unified Regulatory Plan for State Fiscal Year 2025

Department of Behavioral Health and Developmental Services

Prepared on June 30, 2024

Description of the State Board of Behavioral Health and Developmental Services

Per § [37.2-200](#) of the Code of Virginia, the State Board of Behavioral Health and Developmental Services is a policy making body, within the meaning of § [2.2-2100](#), authorized to promulgate public policies or regulations for the department, state facilities, and CSBs and BHAs. The department operates under the supervision of the Secretary of Health and Human Resources. (Additional information:

<https://dbhds.virginia.gov/about-dbhds/Boards-Councils/state-board-of-BHDS/>)

Department

Title 37.2 of the Code of Virginia establishes the Department of Behavioral Health and Developmental Services (DBHDS) as the state authority for the behavioral health and developmental services system for individuals and their families whose lives are affected by mental health or substance use disorders or a developmental disability. The department is authorized by:

- Chapters 3 (§ [37.2-300](#) et seq.) and 7 (§ [37.2-700](#) et seq.) of Title 37.2 of the Code of Virginia to operate DBHDS hospitals, training centers, and other facilities (state facilities); and
- Chapters 5 (§ [37.2-500](#) et seq.) and 6 (§ [37.2-601](#) et seq.) of Title 37.2 of the Code of Virginia to fund and contract with community services boards (CSBs) and behavioral health authorities (BHAs) for the purposes of establishing, maintaining, and promoting prevention, early intervention, treatment, and habilitation services and supports. [A full list of authority is in the VAC [Preface](#).]

EXISTING ACTIONS

Action/Stage or Guidance Document Forum ID (if available) Action 6475	
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105 and 12VAC35-115, Amendments to ensure that licensing and human rights regulations support high-quality mental health services.	
Brief Overview The licensing and human rights regulatory amendments regarding implementation of the new crisis services are in direct response to the mandate in Chapter 795 of the 2024 Session of the Virginia General Assembly to make changes to the system structure to have high-quality service, including to allow for seclusion in certain settings. The primary change is adding a new part to the licensing regulations with several new sections that specifically addresses crisis services. That includes specifying requirements for three new licenses: crisis receiving centers (CRCs); crisis stabilization units (CSUs); community-based crisis stabilization (includes mobile crisis response).	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Final <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input checked="" type="checkbox"/> Exempt Action <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary Action <input checked="" type="checkbox"/> Action required by state statute
Deregulatory Component	This action is mandated. Reducing mandates is not the primary goal of the action; however, crisis providers are exempted from 12 current sections. Instead, requirements are more specifically tailored to each service that will help alleviate burden and provide clarification.
Expected Date	Effective 7/17/2024.

Action/Stage or Guidance Document Forum ID (if available) Action 5999 / Stage 10343	
Title of Proposed Regulatory Action or Guidance Document 12VAC35-230, Operation of the Individual and Family Support Program. Amendments to establish criteria and annual funding priorities through the Annual Funding Program Guidelines and ensure public input.	
Brief Overview Amendments per Item 313.NN of the 2022 Appropriation Act (Chapter 2, 2022 Special Session 1 Acts of Assembly) to utilize emergency authority to promulgate regulations that change the current distribution of annual Individual and Family Support Program (IFSP) funds from a 'first-come-first-served' basis to one based on program categories and set criteria.	

Anticipated Regulatory Activities

Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	This action is mandated.	
Expected Date	Effective 7/17/2024.	

Action/Stage or Guidance Document Forum ID (if available) Action 6152 / Stage 10070 (Note: Revised direction from OAG on 6/16/23: Change exempt final action (Action 6152/Stage 9877) to fast track; exempt action withdrawn 7/17/23.)		
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105, Integration of the Final Federal Rule: Registration Requirements for Narcotic Treatment Programs with Mobile Components into the Licensing Regulations.		
Brief Overview This fast track action would integrate federal regulations into the state licensing regulations and allow Virginia providers to provide MAT services in a mobile unit. The allowance of this service is intended to facilitate addressing the opioid crisis and expand opportunities for providers as requested by the provider community.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	These regulations are federal law. However, per the OAG, the agency has discretion on whether to integrate services with federal requirements. Therefore, there is no reduction of mandates but one added discretionary mandate for the agency, regarding providers who choose to provide mobile MAT services. Providers requested the language be placed in state law to provide protection for their investment in the equipment to provide mobile MAT.	
Expected Date	Refiled as fast track 7/17/2023; pending with HHR.	

Action/Stage or Guidance Document Forum ID (if available) Action 6286 / Stage 10076

Anticipated Regulatory Activities

Title of Proposed Regulatory Action or Guidance Document		
Streamlining Training Center Regulations by Rescinding the Regulations for Voluntary Admissions to State Training Centers [12VAC35-190] and Combining into Regulations for Emergency and Respite Care Admission to State Training Centers [12VAC35-200].		
Brief Overview		
This action merges two chapters into one, through amendments to Chapter 200 and repeal of Chapter 190. All regulatory language pertaining to admissions to DBHDS training centers are captured in the updated Chapter 200 in order to provide clarity and ease of use. Also, amendments are made to reflect current admissions practice.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	The admission and discharge requirements to the remaining DBHDS training center are prescribed in sections of Title 37.2 or the US DOJ Settlement Agreement with Virginia.	
Expected Date	Filed 7/25/2023; pending with HHR.	

Action/Stage or Guidance Document Forum ID (if available)		
Action / Stage (not available)		
Title of Proposed Regulatory Action or Guidance Document		
12VAC35-105, Exempt Final Amendments per Chapter 723 (2020) to Application Requirements: Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (“Licensing Regulations”).		
Brief Overview		
These requirements have been in the Code of Virginia since July 1, 2020. These amendments requiring specific information to be provided during the application process need to be added to the Licensing Regulations. Amending the Licensing Regulations to add these requirements will provide comprehensive information and clarify the expectations for what specific information applicants must include as already required in state law. Specifically, the bill created eight new requirements for both initial and renewal applications for providers of services licensed by DBHDS.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	The 2020 General Assembly passed Chapter 723 that mandated this action to implement requirements in the Code of Virginia into the regulations.	

Anticipated Regulatory Activities

Expected Date	Filed July 12, 2023; pending with OAG.
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FUTURE ACTIONS

Action/Stage or Guidance Document Forum ID (if available) (not available)		
Title of Proposed Regulatory Action or Guidance Document 12VAC36-260, Reporting deaths or serious injuries.		
Brief Overview This will action conform the regulation to Chapter 30 of the 2024 Session of the General Assembly to add the requirement that any certified recovery residence in Virginia report any death or serious injury that occurs in the recovery residence to the Department of Behavioral Health and Developmental Services (DBHDS).		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary Action
Deregulatory Component	No; this is a mandated action adding a new requirement.	
Expected Date	July 17, 2024.	

Action/Stage or Guidance Document Forum ID (if available) (not available)		
Title of Proposed Regulatory Action or Guidance Document Integration of the Final Federal Rule: Medications for the Treatment of Opioid Use Disorder.		
Brief Overview 12VAC35-105, This action will conform Virginia’s Licensing Regulations to changes in 42 CFR Part 8, that modified and updated certain provisions related to opioid treatment program (OTP) accreditation, and stands for the treatment of opioid use disorder (OUD) with medications for opioid use disorder (MOUD) in OTPs, including making permanent flexibilities put forth during the COVID-19 emergency. Some requirements allow discretion by states to match or have variation in the intensity of requirements.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary Action

Anticipated Regulatory Activities

Deregulatory Component	Service flexibilities are made permanent, thus reducing intensity of some requirements.
Expected Date	September 28, 2024.

Action/Stage or Guidance Document Forum ID (if available) (not available)	
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105, Amendments requiring a valid discharge plan upon the discharge or withdrawal from substance use disorder treatment facility.	
Brief Overview Chapter 808 of the 2024 Session of the General Assembly mandated these amendments that a discharge plan shall include the provisions that the facility (i) identify and coordinate with public and private agencies or persons identified as able to deliver any needed services to such individuals and (ii) provide care coordination with such individual's payor to assist such individual in the execution of such discharge plan.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary Action
Deregulatory Component	No; this is a mandated action.
Expected Date	September 28, 2024.

Action/Stage or Guidance Document Forum ID (if available) (not available)	
Title of Proposed Regulatory Action or Guidance Document 12VAC35-225, Response to periodic review; adding professions to the list of qualified personnel.	
Brief Overview These proposed changes would expand the eligible pool of providers to deliver early intervention services for infants and toddlers with disabilities and their families by adding six professional disciplines to the list of qualified personnel who may seek certification from DBHDS as early intervention professionals.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action <input type="checkbox"/> Guidance Document

Anticipated Regulatory Activities

Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary Action <input type="checkbox"/> Action required by state statute
Deregulatory Component	No, but the action widens the door for additional personnel to meet service and workforce demands.
Expected Date	September 28, 2024.

Action/Stage or Guidance Document Forum ID (if available) Action / Stage (not available)	
Title of Proposed Regulatory Action or Guidance Document Amendments to 12VAC35-46 to reduce regulatory burden.	
Brief Overview This regulatory action will target a package of amendments to reduce regulatory burden on licensed providers that are intended to be noncontroversial.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Final Rule <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Guidance Document <input type="checkbox"/> Exempt Rule
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary action <input type="checkbox"/> Action required by state statute
Deregulatory Component	Yes, through the elimination of discretionary mandates and reducing the intensity of other discretionary mandates.
Expected Date	September 28, 2024.

Action/Stage or Guidance Document Forum ID (if available) Action / Stage (not available)	
Title of Proposed Regulatory Action or Guidance Document Amendments to 12VAC35-105 to reduce regulatory burden.	
Brief Overview This regulatory action will target a package of amendments to reduce regulatory burden on licensed providers that are intended to be noncontroversial.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Final Rule <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Guidance Document <input type="checkbox"/> Exempt Rule
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary action <input type="checkbox"/> Action required by state statute

Anticipated Regulatory Activities

Deregulatory Component	Yes, through the elimination of discretionary mandates and reducing the intensity of other discretionary mandates.
Expected Date	September 28, 2024.

Action/Stage or Guidance Document Forum ID (if available) (not available)	
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105, Amendments to implement Chapter 595 of the 2024 Session of the General Assembly regarding behavioral health technicians; behavioral health technician assistants; qualified mental health professionals; and qualified mental health professional-trainees.	
Brief Overview The mandate directs DBHDS to promulgate regulations to align with the Board of Counseling’s new regulations establishing qualification, scope of practice, and supervision requirements for four professions.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary Action
Deregulatory Component	No.
Expected Date	December 11, 2024.

Action/Stage or Guidance Document Forum ID (if available) Action / Stage (not available)	
Title of Proposed Regulatory Action or Guidance Document Amendments to 12VAC35-115 to reduce regulatory burden and streamline.	
Brief Overview This regulatory action will target a package of amendments to reduce regulatory burden on licensed providers as part of a significant clarifying update already in development. <i>Currently, this is listed as a fast track action; however, given the nature of the regulation (human rights), it may be more appropriate as a standard action.</i>	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track

Anticipated Regulatory Activities

Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	Yes, though overall it contains more streamlining, clarifying edits due to the importance of protecting human rights and the need for clarity with that process.	
Expected Date	December 11, 2024.	

Action/Stage or Guidance Document Forum ID (if available) Action / Stage (not available)		
Title of Proposed Regulatory Action or Guidance Document 12VAC35-225, Mandate reduction.		
Brief Overview This action would contain targeted edits to reduce discretionary mandates without affecting service delivery.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	Yes.	
Expected Date	December 11, 2024.	

Action/Stage or Guidance Document Forum ID (if available) Action / Stage (not available)		
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105, Amendments to overhaul into service specific chapters: Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (“Licensing Regulations”) and 12VAC35-46 Children’s Residential Regulations.		
Brief Overview These amendments are the result of a periodic review. A RAP was held in 2019 and in 2023. The historic “overhaul” of the Licensing Regulations involves combining the Licensing Regulations and the Children’s Residential Regulations, and moving language into drafts for a General Chapter applying to all services and five new service-specific chapters: Residential Services, Center-Based Services, Home/Non-Center Based Services, Case Management, and Crisis Services.		
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track

Anticipated Regulatory Activities

Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	Yes. The primary purpose of this action is to combine the two existing chapters and reorganize them to streamline and clarify language into service-specific chapters to assist providers in the delivery of services. Providers have repeatedly asked for such improvement in ease of use of the regulations.	
Expected Date	September 28, 2024.	

Action/Stage or Guidance Document Forum ID (if available) Action / Stage (not available)		
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105 Amendments to overhaul into service specific chapters: Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (“Licensing Regulations”) and 12VAC35-46 Children’s Residential Regulations.		
Brief Overview These amendments are the result of a periodic review. A RAP was held in 2019 and in 2023. The historic “overhaul” of the Licensing Regulations involves combining the Licensing Regulations and the Children’s Residential Regulations, and moving language into drafts for a General Chapter applying to all services and five new service-specific chapters: Residential Services, Center-Based Services, Home/Non-Center Based Services, Case Management, and Crisis Services.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	Yes. The primary purpose of this action is to combine the two existing chapters and reorganize them to streamline and clarify language into service-specific chapters to assist providers in the delivery of services. Providers have repeatedly asked for such improvement in ease of use of the regulations.	
Expected Date	December 11, 2024.	

Action/Stage or Guidance Document Forum ID (if available) (not available)		
Title of Proposed Regulatory Action or Guidance Document 12VAC35-105, Technical and other clarifying amendments regarding crisis services (‘short list’).		

Anticipated Regulatory Activities

Brief Overview As a follow up to the implementation of crisis services related to Right Help Right Now, it is expected that minor technical amendments will be needed to fine tune the changes effective 7/17//2024.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input checked="" type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary Action
Deregulatory Component	No.	
Expected Date	April 2025.	

CURRENT PENDING GUIDANCE

Action/Stage or Guidance Document Forum ID (if available) Guidance Document Forum 2492		
Title of Proposed Regulatory Action or Guidance Document DD 07 The Individual and Family Support Funding Guidelines (FY2023)(relates to 12VAC35-230).		
Brief Overview Amendments per Item 313.NN. of the 2022 Appropriation Act (Chapter 2, 2022 Special Session 1 Acts of Assembly) to utilize emergency authority to promulgate regulations that change the current distribution of annual Individual and Family Support Program (IFSP) funds from a ‘first-come-first-served’ basis to one based on program categories and set criteria.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	This action is mandated.	
Expected Date	Adopted. Update posted 6/12/2024; pending ORM approval.	

FUTURE GUIDANCE

Action/Stage or Guidance Document Forum ID (if available) Guidance Document Forum ID (not available)
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Anticipated Regulatory Activities

Title of Proposed Regulatory Action or Guidance Document		
Uses of Video and Audio Monitoring in a Provider Service Settings (HR 02) (12VAC35-115)		
Brief Overview		
This guidance will clarify the right of individuals receiving services licensed, funded, or operated by DBHDS to reasonable privacy, and clarify and detail expectations regarding provider use of monitoring devices in a service setting.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.	
Expected Date	August 2024.	

Title of Proposed Regulatory Action or Guidance Document		
Guidance for Serious Incident Reporting (LIC 17)		
Brief Overview		
The planned updates to this guidance document will include additional clarification regarding requirements from the DOJ Settlement Agreement for providers of DD services to track specific risks that are common to individuals with developmental disabilities, as part of the provider's quarterly review of serious incidents. The guidance will clarify the expectation and provide examples. <i>This is not required by federal or state statute, but by agreement with the US Department of Justice in implementing the Settlement Agreement with Virginia.</i>		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action <input checked="" type="checkbox"/> <i>Other (DOJ Settlement Agr.)</i>
Deregulatory Component	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.	
Expected Date	April 2025.	

Anticipated Regulatory Activities

Action/Stage or Guidance Document Forum ID (if available) (Not available)	
Title of Proposed Regulatory Action or Guidance Document Guidance for Risk Management (LIC 21)	
Brief Overview The planned updates to this guidance document will include additional clarification as to how providers can incorporate information from their quarterly review of serious incidents into their annual systemic risk review. Updating this document is necessary to comply with required curative actions of the DOJ Settlement Agreement. <i>This is not required by federal or state statute, but by agreement with the US Department of Justice in implementing the Settlement Agreement with Virginia.</i>	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action <input checked="" type="checkbox"/> <i>Other (DOJ Settlement Agr.)</i>
Deregulatory Component	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
Expected Date	April 2025.

Action/Stage or Guidance Document Forum ID (if available) (Not available)	
Title of Proposed Regulatory Action or Guidance Document Guidance on Reporting Medication Errors as Potential Abuse or Neglect (HR 04)	
Brief Overview This guidance will clarify expectations for licensed and funded providers regarding when to report a medication error as potential abuse or neglect; the intent is to reduce reporting that is not tied to suspected neglect. The guidance will clarify terminology and provide examples.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
Expected Date	April 2025.

Anticipated Regulatory Activities

Action/Stage or Guidance Document Forum ID (if available) Guidance document forum ID (not available)	
Title of Proposed Regulatory Action or Guidance Document Part C 09 Early Intervention Practice Manual	
Brief Overview Planned changes are intended to align the manual with new processes necessitated by a new data system and to reflect telehealth options now allowed and their associated Medicaid requirements. There might be changes related to which personnel can provide Early Intervention services (depending on DMAS' response) and some other nonsubstantive updates. Likely there would be an increase in word count as some previous discretionary mandates are moved from regulatory text to guidance (see above) as a result of the deregulatory effort listed above.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed <input type="checkbox"/> Final <input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
Additional Description	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	DBHDS guidance documents are not enforceable, and therefore have no mandates.
Expected Date	April 2025.