

# Unified Regulatory Plan for State Fiscal Year 2024

## Department of Behavioral Health and Developmental Services

Prepared on June 27, 2023

### **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**

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Action 5849 / Stage 9581		
<b>Title of Proposed Regulatory Action or Guidance Document</b> 12VAC35-46, Amendments to align with the Family First Prevention Service Act (FFPSA).		
<b>Brief Overview</b> <a href="#">Item 318. D.</a> of the 2021 Special Session 1 Appropriation Act to promulgate emergency regulations to align with the requirements of the federal Family First Prevention Service Act (FFPSA) for children’s residential service providers who accept Title IV-E funding to meet the standards as qualified residential treatment programs (QRTPs). [Extended emergency 01/10/2022 - 01/08/2024.]		
<b>Regulatory Stage (check one box)</b>	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input checked="" type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	These regulations are mandated by the General Assembly to align with federal requirements.	
<b>Expected Date</b>	July 7, 2023	

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Action 5849 / Stage (not available)		
<b>Title of Proposed Regulatory Action or Guidance Document</b> 12VAC35-46, Amendments to align with the Family First Prevention Service Act (FFPSA).		
<b>Brief Overview</b> <a href="#">Item 318. D.</a> of the 2021 Special Session 1 Appropriation Act to promulgate emergency regulations to align with the requirements of the federal Family First Prevention Service Act (FFPSA) for children’s residential service providers who accept Title IV-E funding to meet the standards as qualified residential treatment programs (QRTPs). [Extended emergency 01/10/2022 - 01/08/2024.]		
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested	<input type="checkbox"/> Guidance Document

**Anticipated Regulatory Activities**

	<input type="checkbox"/> Exempt Action
<b>Legal Authority</b>	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Discretionary action <input checked="" type="checkbox"/> Action required by state statute
<b>Deregulatory Component</b>	These regulations are mandated by the General Assembly to align with federal requirements.
<b>Expected Date</b>	September 27, 2023; final stage must be published in the Register <b>no later than 12/4/23.</b>

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Revised direction from OAG on 6/16/23: Must change current exempt final action (Action 6152/Stage 9877) to fast track (Action /Stage not available). <i>Withdrawal of exempt.</i>	
<b>Title of Proposed Regulatory Action or Guidance Document</b> 12VAC35-105, Integration of the <a href="#">Final Federal Rule</a> : Registration Requirements for Narcotic Treatment Programs with Mobile Components into the Licensing Regulations	
<b>Brief Overview</b> This <del>exempt</del> 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.	
<b>Regulatory Stage (check one box)</b>	<input type="checkbox"/> NOIRA <input type="checkbox"/> Emergency or <input type="checkbox"/> Proposed                                      Emergency/NOIRA <input type="checkbox"/> Final <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Guidance Document <input checked="" type="checkbox"/> <del>Exempt Action</del>
<b>Legal Authority</b>	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Discretionary action <input type="checkbox"/> Action required by state statute
<b>Deregulatory Component</b>	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.
<b>Expected Date</b>	July 12, 2023 Withdrawal of the action.

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Revised direction from OAG on 6/16/23: Must change current exempt final action (Action 6152/Stage 9877) to fast track (Action /Stage not available). <i>File fast track.</i>	
<b>Title of Proposed Regulatory Action or Guidance Document</b> 12VAC35-105, Integration of the <a href="#">Final Federal Rule</a> : Registration Requirements for Narcotic Treatment Programs with Mobile Components into the Licensing Regulations	

**Anticipated Regulatory Activities**

<b>Brief Overview</b>		
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.		
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	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.	
<b>Expected Date</b>	July 12, 2023 <i>Resubmission of a different type of action.</i>	

<b>Action/Stage or Guidance Document Forum ID (if available)</b>		
Action 5999 / Stage (not available)		
<b>Title of Proposed Regulatory Action or Guidance Document</b>		
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.		
<b>Brief Overview</b>		
Amendments per <a href="#">Item 313.NN</a> , 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.		
<b>Regulatory Stage (check one box)</b>	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Final	<input type="checkbox"/> Emergency or Emergency/NOIRA <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	This action is mandated.	

**Anticipated Regulatory Activities**

<b>Expected Date</b>	July 12, 2023 (Emergency eff. 1/19/2023; expires 7/18/2024.)	
<b>Action/Stage or Guidance Document Forum ID (if available)</b> Action 5999 / Stage (not available)		
<b>Title of Proposed Regulatory Action or Guidance Document</b> 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.		
<b>Brief Overview</b> Amendments per <a href="#">Item 313.NN.</a> 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.		
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	This action is mandated.	
<b>Expected Date</b>	December 2023 (Emergency eff. 1/19/2023; expires 7/18/2024.)	

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Action 6151 / Stage 9876		
<b>Title of Proposed Regulatory Action or Guidance Document</b> Amendments to comply with Item 312 L.2. and Chapter 755 (HB277) 12VAC35-260		
<b>Brief Overview</b> <a href="#">HB277</a> (2022) required that all recovery residences be certified by DBHDS and that as a condition of such certification, residences must comply with minimum square footage requirements related to beds and sleeping rooms established by the credentialing entity or the Uniform Statewide Building Code, whichever is greater. A guidance document update will correspond with these amendments.		
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested	<input type="checkbox"/> Guidance Document

## Anticipated Regulatory Activities

	<input type="checkbox"/> Exempt Action
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Discretionary action <input type="checkbox"/> Action required by state statute
<b>Deregulatory Component</b>	These changes are mandated by the General Assembly.
<b>Expected Date</b>	12/8/2022

### **FUTURE ACTIONS**

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b> 12VAC35-105, Exempt Final Amendments per <a href="#">HB679</a> (2020) to Application Requirements: Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services (“Licensing Regulations”)	
<b>Brief Overview</b> 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.	
<b>Regulatory Stage (check one box)</b>	<input type="checkbox"/> NOIRA <input type="checkbox"/> Emergency or <input type="checkbox"/> Proposed Rule                              Emergency/NOIRA <input type="checkbox"/> Final Rule <input type="checkbox"/> Revised Proposed <input type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Guidance Document <input checked="checked" type="checkbox"/> Exempt Rule
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Discretionary action <input checked="checked" type="checkbox"/> Action required by state statute
<b>Deregulatory Component</b>	The 2020 General Assembly passed <a href="#">House Bill 597</a> , which created new statutory licensing requirements. Specifically, the bill created eight new requirements for both initial and renewal applications for providers of services licensed by DBHDS.
<b>Expected Date</b>	July 12, 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b> 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].	

**Anticipated Regulatory Activities**

<b>Brief Overview</b>	
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.	
<b>Regulatory Stage (check one box)</b>	<input checked="" 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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	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.
<b>Expected Date</b>	July 12, 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b>	
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].	
<b>Brief Overview</b>	
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.	
<b>Regulatory Stage (check one box)</b>	<input type="checkbox"/> NOIRA <input checked="" 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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	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.
<b>Expected Date</b>	April 2024

<b>Action/Stage or Guidance Document Forum ID (if available)</b>
Guidance Document Forum ID (not available)

**Anticipated Regulatory Activities**

<b>Title of Proposed Regulatory Action or Guidance Document</b> Uses of Video and Audio Monitoring in a Provider Service Settings (HR 03)	
<b>Brief Overview</b> 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.	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
<b>Expected Date</b>	September 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
<b>Title of Proposed Regulatory Action or Guidance Document</b> Guidance on Reporting Medication Errors as Potential Abuse or Neglect (HR 04)	
<b>Brief Overview</b> 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.	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
<b>Expected Date</b>	September 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b> Guidance Document Forum (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b> DBHDS DD Support Coordination (Case Management) Handbook (DD 05)	



**Anticipated Regulatory Activities**

<b>Brief Overview</b>	
The handbook provides information and "how to" guidance regarding developmental disability (“DD”) case management services across the system. General content updates are needed as regulations change (including DMAS) and user feedback is collected. Strengthening the support coordinator’s/case manager’s role is essential to helping ensure effective and accountable services under the Medicaid Development Disability Waivers. The purpose of this handbook is to guide support coordinators in all aspects of their work.	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
<b>Expected Date</b>	September 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b>	
Amendments to 12VAC35-46 to reduce regulatory burden.	
<b>Brief Overview</b>	
This regulatory action will target a package of amendments to reduce regulatory burden on licensed providers.	
<b>Regulatory Stage (check one box)</b>	<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 checked="" type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	The entire chapter was reviewed for this purpose and a final draft was reviewed internally; however, specifics are under discussion.
<b>Expected Date</b>	September 27, 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b>	
Amendments to 12VAC35-105 to reduce regulatory burden.	

**Anticipated Regulatory Activities**

<b>Brief Overview</b>	
This regulatory action will target a package of noncontroversial amendments to reduce regulatory burden on licensed providers.	
<b>Regulatory Stage (check one box)</b>	<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 checked="" type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	The entire chapter was reviewed for this purpose and a final draft will be reviewed internally; however, specifics are under discussion.
<b>Expected Date</b>	September 27, 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
Guidance Document Forum ID (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b>	
Certified Recovery Residences (ORS 01)	
<b>Brief Overview</b>	
This guidance will be updated to correspond with mandated changes to 12VAC35-260, per <a href="#">HB277</a> (2022). A regulatory action is in process. <i>While the regulatory action is required, the guidance is not; however, the box is checked under 'legal authority' as it is tied to the regulatory mandate.</i>	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
<b>Expected Date</b>	December 2023

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b>	
Amendments to 12VAC35-115 to reduce regulatory burden and streamline.	

**Anticipated Regulatory Activities**

<b>Brief Overview</b>		
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>		
<b>Regulatory Stage (check one box)</b>	<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 checked="" type="checkbox"/> Fast-Track
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	The specifics remain pending as the entire chapter is reviewed by the OAG (since March) for this purpose.	
<b>Expected Date</b>	December 2023	

<b>Action/Stage or Guidance Document Forum ID (if available)</b>		
Guidance document forum ID (not available)		
<b>Title of Proposed Regulatory Action or Guidance Document</b>		
Part C 09 Early Intervention Practice Manual		
<b>Brief Overview</b>		
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.		
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action	<input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore have no mandates.	
<b>Expected Date</b>	December 2023	

<b>Action/Stage or Guidance Document Forum ID (if available)</b>		
Action / Stage (not available)		
<b>Title of Proposed Regulatory Action or Guidance Document</b>		

**Anticipated Regulatory Activities**

12VAC35-225, Amendments to Requirements for Virginia's Early Intervention System to add new disciplines.	
<b>Brief Overview</b> DBHDS is in discussion with DMAS regarding a number of new provider types (disciplines) DBHDS Part C would like to add in 12VAC35-225-430.B. If DMAS indicates it would accept those disciplines for Medicaid reimbursement, DBHDS would proceed with proposing a regulatory change.	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Review Requested <input type="checkbox"/> Exempt Action <input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	<i>Under development.</i>
<b>Expected Date</b>	December 2023

<b>Title of Proposed Regulatory Action or Guidance Document</b> Guidance for Serious Incident Reporting (LIC 17)	
<b>Brief Overview</b> 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>	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<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>
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
<b>Expected Date</b>	January 2024

<b>Title of Proposed Regulatory Action or Guidance Document</b> Guidance for Risk Management (LIC 21)
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**Anticipated Regulatory Activities**

<b>Brief Overview</b>	
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>	
<b>Regulatory Stage (check one box)</b>	<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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<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>
<b>Deregulatory Component</b>	DBHDS guidance documents are not enforceable, and therefore, contain no mandates.
<b>Expected Date</b>	January 2024

<b>Action/Stage or Guidance Document Forum ID (if available)</b>	
Action / Stage (not available)	
<b>Title of Proposed Regulatory Action or Guidance Document</b>	
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 Childrens Residential Regulations.	
<b>Brief Overview</b>	
These amendments are the result of a periodic review. A RAP was held in 2019 and in 2023. The “overhaul” of the Licensing Regulations involves combining the Licensing Regulations and the Childrens 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.	
<b>Regulatory Stage (check one box)</b>	<input checked="" 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
<b>Additional Description</b>	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
<b>Legal Authority</b>	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
<b>Deregulatory Component</b>	The language will be reviewed once drafts are finalized to reduce any new draft discretionary mandates; however, the purpose of this action is to combine the two existing chapters and reorganize them to streamline and clarify language to assist providers in the delivery of services.

**Anticipated Regulatory Activities**

<b>Expected Date</b>	June 30, 2024
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