



VIRGINIA BOARD FOR  
PEOPLE WITH DISABILITIES

## **FFY 2010 Developmental Disabilities Council State Plan Update**

(For the period October 1, 2009 – September 30, 2010)

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*Alternate Format Copies of this Draft Plan are Available, Upon Request*

## **Table of Contents**

<b>Mission Statement</b>	<b>3</b>
<b>Background</b>	<b>3</b>
<b>Board Activities and Progress</b>	<b>3</b>
<b>Comprehensive Assessment</b>	<b>5</b>
<b>Significant Challenges &amp; Areas of Concern</b>	<b>13</b>
<b>Areas of Emphasis</b>	<b>16</b>
<b>Goals and Objectives</b>	<b>16</b>
<b>Assurances</b>	<b>20</b>

## ***Virginia Board for People with Disabilities - Mission Statement***

***To enrich the lives of Virginians with disabilities by providing a voice for their concerns—***

- ***Vision of communities that welcome people with disabilities—***
- ***Outreach to individuals, families, and advocates—***
- ***Innovation through grant projects and sponsored programs—***
- ***Collaboration with providers of disability services—***
- ***Education of policymakers on disability issues.***

## ***Background - the Developmental Disabilities Council State Plan***

The Virginia Board for People with Disabilities (the Board) serves as the Commonwealth's Developmental Disabilities (DD) Planning Council and as the Governor's Advisory Council on issues affecting people with developmental disabilities. Under federal law, each state has a DD Council, which receives funds to carry out initiatives for systems-change, capacity- building, and advocacy. Through these activities, the Board seeks to impact the independence, productivity, inclusion, and integration of people with disabilities in their communities.

All DD Councils are required to develop five-year state plans to enable them to optimally fulfill their missions and roles on behalf of people with disabilities, family members, service providers, and other disability stakeholders. While the state plan provides the "framework" for each council's principal funding initiatives, staff work priorities, and Board member activities, it does not include all activities undertaken by the Board or its staff. As required by federal law, the plan focuses primarily on where federal resources will be dedicated over the five-year period.

State plans are reviewed on an annual basis and achievement of stated goals and objectives are reported in December of each year for the previous federal fiscal year (FFY). Consistent with federal requirements, the 2007-2011 State Plan was released for a 45-day public comment period in 2006. Comment was compiled, analyzed and utilized in the development of goals and objectives. The 2007-2011 State Plan went into effect on October 1, 2006; the first year update (for FFY 2008), effective October 1, 2007; and the second year update (for FFY 2009), effective October 1, 2008. This update will be effective October 1, 2009.

## ***Board Activities - Measuring Progress***

The Board's activities are identified, shaped, and focused through a comprehensive assessment and state plan development process that is designed to reflect the changing needs of disability stakeholders as well as shifts in the state's policy, regulatory, and fiscal environment. The Board achieves its organizational goals through an array of diverse activities that include outreach and training, service system monitoring, provision of technical assistance, supporting and educating communities, eliminating barriers to service, building coalitions, informing

policymakers, and funding systems change projects and activities throughout Virginia. The Board also achieves its organizational goals by engaging in advocacy training and leadership development initiatives statewide. The Board's work includes:

- **Constituent Outreach and Training:** The Board's constituent outreach and training activities are facilitated by board members and staff through liaison activities and participation on a number of statewide councils, commissions, advisory committees, conference planning committees, and workgroups in both the public and private sectors that address diverse issues affecting individuals with disabilities and their family members. The purpose of these activities is to empower disability stakeholders by providing accurate, current information on the state's service system for people with disabilities as well as timely and responsive information to disability constituents regarding issues, events, and operations throughout the state pertaining to their needs.
- **Service System Monitoring:** The Board collects and analyzes information regarding the needs of people with disabilities and assesses the effectiveness of service programs in meeting their needs. Through diverse membership that includes people with disabilities, advocates, state and local agency representatives, and private sector representatives, the Board engages ongoing discussion and assessment of access to services, the efficiency of the system, and satisfaction of individuals with disabilities with the services that they receive. In collaboration with state agencies that provide or fund disability services, the Board conducts extensive research on programs and services available, including service data trends, to assess progress and gaps in the service system. In addition, as part of developing its report, *Biennial Assessment of the Disability Service System in Virginia*, published in 2006 and 2008, the Board conducted Public Comment events at six locations statewide. Findings, as well as areas of concern and recommendations for improvement, are reported in each edition of the *Biennial Assessment*.
- **Information, Referral, and Technical Assistance:** The Board provides technical assistance to public and private-sector disability organizations throughout Virginia in several ways: under the auspices of its grant-making activities; by responding to requests for information and assistance; by serving on committees, councils, and advisory groups; or by proactively educating communities about the status, needs, rights or programs pertaining to people with disabilities in the state. Ongoing information and referral are provided on a daily basis to disability stakeholders seeking information and assistance by phone, e-mail, and the Board's web site.
- **Supporting and Educating Communities:** The Board supports and educates numerous constituencies including people with developmental disabilities and their family members, the Governor and the Governor's policy staff, the Secretary of Health and Human Resources, members of the General Assembly, disability advocacy and consumer organizations, state and local disability services providers and public citizens. The Board maintains an ongoing presence on the Internet as well as proactive production, mailing, and Internet posting of organizational and disability policy information. The Board maintains a web site that informs constituents about Board activities, contains reports, informational documents,

program announcements, grant and program application information, Board meeting information and diverse links to other disability resources and organizations nationally and statewide. The Board publishes and distributes a quarterly newsletter, “Voices and Visions”, to approximately 7,100 individuals and organizations statewide. The Board’s mailing list of interested constituents continues to grow, increasing by 18% over the last year. In addition, through collaboration with the State Special Education Advisory Committee, in 2007 the Board created the Virginia Special Education Network, a grassroots communications network to more effectively and efficiently distribute information on special education and related disability issues. The network’s mailing list currently has over 1,000 unique, new contacts.

- **Building Coalitions and Informing Policymakers:** Due to its unique role under federal law, the Board is able to serve as an independent voice and policy advisor on issues affecting persons with developmental and other disabilities to the Governor, legislators, state agencies, and other stakeholders. The Board strives to be a valuable, reliable resource for information on the status of people with developmental and other disabilities statewide in areas of employment, community living, education, health, housing, and transportation.
- **Funding Systems Change Grants:** For nearly three decades, the Board has provided millions of dollars of federal funding and has leveraged significant amounts of local and state government and private-sector funding to promote the demonstration, implementation, and replication of projects that have demonstrably improved services, attitudes, knowledge, and practice throughout diverse service systems pertaining to people with developmental and other disabilities in Virginia. Through its funding of over two-hundred systems change grants, the Board has served as an important agent for positive change throughout the service system.
- **Advocacy Training and Leadership Development:** Through its premiere leadership training programs, Partners in Policymaking and the Youth Leadership Forum, the Board has trained hundreds of families, youth, and others with developmental disabilities to become leaders in their communities and at the state level. Graduates of our Partners program have obtained membership on the Council, on School Boards, and on local Boards of Supervisors, and they have been a potent force of advocacy. Likewise, our youth leaders have used their training to engage in ongoing advocacy activities designed to improve their lives and the lives of others. To develop a strong self advocacy network in Virginia, the Board had engaged in support of self-advocates with its New Voices initiative and recently has expanded support through the Self-Mobilization Advocacy project.

During this federal fiscal year,, the Board continued its standing committee structure with a total of four committees: *Community Integration (CI)*, *Community Living and Transportation (CLT)*, *Employment (EM)*, and *Education and Outreach (ED/O)*.

### ***Comprehensive Assessment***

The goals and objectives included in the 2007-2011 State Plan and maintained in the FFY 2010 Update emanated in large part from the *Biennial Assessments* developed by the DD Council

in 2005-2006 and updated in 2007-08. Specific details on the status, strengths and gaps in the Commonwealth's disability service system, including data and reference sources for the information below, are included in the *2008 Biennial Assessment*, which was released in spring 2008. [In response to a Board request, the 2009 legislature revised the Code requirement for periodic assessment, increasing the time interval between reports from 2 years to 3 years. This change will improve identification of trends and significant changes within the service delivery system.]

Virginia's disability service system is comprised of many dedicated, hardworking public and private organizations, and the Commonwealth has made many positive strides in the area of disability services within the last few years. Virginia leads the nation by having a **Community Integration Advisory Commission (CIAC)**, which has a majority of its members being persons with disabilities. Established by statute in 2006, the CIAC has responsibility to monitor implementation the Commonwealth's community integration activities and to make recommendations to the Governor for system improvements. In 2007, as a result of Board advocacy, the Governor issued **Executive Directive #6** reauthorizing the Community Integration Implementation team, comprised of 21 state agencies and representatives from local governments and advocacy groups. This directive requires collaboration "...to complete and annually update a comprehensive, cross-governmental strategic plan designed to assure community integration of Virginians with disabilities." The 2009 General Assembly extended the "sunset" provision for CIAC until July 2010.

Significantly, the Commonwealth successfully applied for three major federally funded projects, which together will reduce the state's reliance on institutional care and will improve community services capacity. Involvement of Virginians with disabilities is promoted for the workgroups and committees implementing these projects. These projects are described below:

- To strengthen community supports, the **Money Follows the Person Rebalancing Demonstration (MFP) Project** will facilitate transition of 1,041 seniors and individuals with disabilities to community placements of their choice over the next three fiscal years (FY 2009-2011). To accomplish this, the MFP Project has enriched services, especially transition services, provided under several Medicaid home and community-based waivers and address housing and transportation needs. Although Virginia had chosen to make permanent all waiver and related system improvements after the project ends, budget constraints from the recession led to the decision to end environmental modifications and assistive technology enhancements in the EDCD and HIV/AIDS waivers now in place for MFP enrollees when the project is complete. As of May 15, 2009, a total of 51 individuals have enrolled in the MFP program for transition services, and of those, 36 have transitioned into the community.
- Virginia also received a **System Transformation Grant (STG)**, a Real Choice Systems Change Grant for Community Living, through the Centers for Medicare and Medicaid. This five-year grant provides \$2.2 million dollars in federal funds to: create a statewide "no wrong door" portal ("Virginia Easy Access") for locating services and supports; foster Person Centered Practices in regulations, policies and procedures across service

systems; and develop a database for monitoring critical incidents and quality assurance, among other purposes.

**Virginia Easy Access** was launched in fall of 2008, and on-line links are prominent on several state agency websites. Marketing of Easy Access has been on-going, but limited by budget constraints to distribution of flyers. Several train-the-trainer sessions and general trainings on Person-Centered Thinking & Practices have been held statewide, resulting in a core group of “master” trainers and clinicians who can implement PCP in local agencies. A workgroup is reviewing regulations and policies of state agencies as they come up for renewal to incorporate PCP language. Focus is on four state agencies that most impact the lives of individuals with disabilities – the Departments of Social Services (DSS), Medical Assistance Services (DMAS), Behavioral Healthcare and Developmental Services (DBHDS, formerly DMHMRSAS), and Health (VDH). Training and education are provided to agency management as well as policy and regulatory staff. A project work plan has been developed and soon will be implemented to create the Critical Incident Monitoring and Reporting System (CIMRS).

- The **State Profile Tool (SPT) Grant** provides funding for development of an outcome measurement tool that will enable progress tracking, including availability and performance, of long-term support services to seniors and persons with disabilities. Virginia will work in collaboration with eight other states in developing this tool, which will ultimately result in national outcome measures on those services. Research has been completed and a draft SPT has been developed for pilot testing.

Two changes to the *Code of Virginia* became effective July 1, 2007, both of which were designed to improve service planning and coordination at the state and local levels. First, the Secretary of Health and Human Resources was established as “lead Secretary for the coordination and implementation” of long-term policy working in collaboration with the Secretaries of Transportation, Commerce and Trade, and Education and the Commissioner of Insurance. (§ 2.2-212). Second, all local regional Planning District Commissions must now include the needs of seniors and persons with disabilities in development of their comprehensive plans (§15.2-2223).

**HOUSING.** To improve the availability and accessibility of housing for individuals with disabilities in Virginia, work is being done by the DD Council as well as under the auspices of the Office of Community Integration, the Money Follows the Person Demonstration Initiative, and the Statewide Council on Independent Living. Projects supported by the Board include the **Housing and Transportation Alliance (THA) and the EasyLiving Home** voluntary certification program, which have generated important public-private partnerships statewide. A Board staff has been a member of the Housing Workgroup for the state Disability Commission since 2005. This workgroup informs Commission members about the housing needs of people with disabilities and provides policy recommendations and strategies to improve access to affordable, accessible community based housing.

Additional positive changes for housing options were actions by the General Assembly. In 2007, the legislature expanded and renamed an existing “visitability” home modification tax

credit to include new home construction that meets specific universal design requirements. Then in 2009, legislation was passed to both expand the annual individual limit for the state’s Livable Home Tax Credit from \$500 to \$2,000 and increase the percentage of retrofitting costs from 25% to 50%. However, the economic crisis in the banking and housing industries nationally have impeded expansion of housing options.

**TRANSPORTATION.** Establishment of a Memorandum of Understanding (MOU) related to Coordinated Human Service Transportation in Public and Nonpublic Transit Systems in June 2007 was a notable step forward. Signed by both the Secretary of Transportation and the Secretary for Health and Human Resources, this MOU requires all state agencies funding transportation for persons who are elderly, have low income, or have disabilities to participate in an Interagency Coordinating Council tasked with improving transportation coordination and services as well as reducing duplication. It also requires development, implementation, and monitoring of work plans designed to meet those goals. As referenced above, Board support of the THA is helping to improve transportation coordination and planning on the local level for individuals with disabilities. Board staff is a member of the state Transportation Coordination Council, which has helped obtain 2 United We Ride grants for the Commonwealth to improve coordination of the human services’ transportation system. The Department of Rail and Public Transportation has worked closely with SeniorNavigator to provide information about transportation providers that offer accessible vehicles.

**COMMUNITY LIVING SUPPORTS.** Since state fiscal year (FY) 2005, increasing numbers of Virginians with disabilities have been able to access services in the community rather than in institutional settings. Budget actions in 2007 and 2008 significantly increased funding that enables Virginians with disabilities to maintain natural supports in their communities. From FY 2005-2007, the number of persons with disabilities served under various programs increased. The number of individuals with intellectual disabilities who received services through Community Services Boards increased by 6.8 percent. During that same period, the number of people served under the Public Guardianship and Conservatorship Program more than doubled, the number of youth served under the Comprehensive Services Act (CSA) increased by 13.6 percent, and the number served under the Department of Rehabilitation Services’ (DRS) Community Rehabilitation Case Management program increased by 10.5 percent.

Significant changes under Medicaid have expanded services to those who are elderly or disabled. Services targeting the elderly have been implemented under the new Alzheimer’s Assisted Living Waiver and under the new Program for All-Inclusive Care (PACE). Due to slower than expected transition of persons from state training centers, the number of 2006 approved facility discharge slots was decreased and was reallocated to community slots. After that reallocation, the *actual total* Waiver slot allocations for state FY 2007 and 2008 were:

<b><u>Final 2008 Waiver Slot Allocations</u></b>	<b><u>FY 07</u></b>	<b><u>FY 08</u></b>
MR/ID Waiver Slots for Children under 6	110	0
MR/ID Waiver slots for Children over 6 and Adults	145	399
MR/ID Waiver Facility Discharge slots		48
DD Waiver slots	65	100

The 2008 and 2009 General Assembly approved additional support for disability services. In 2008, an additional \$200,000 was approved for **brain injury services**; and \$5,000,000 was appropriated for each year of the biennium to increase **reimbursement rates** paid to MR/ID Waiver congregate residential group home providers by 3.6 percent.

Intensification of the recession in 2008-09 placed major constraints on the state budget, and resulted in budget cuts and layoffs in many state agencies during 2009. Passage of the federal “stimulus package” in 2009, however, not only helped to prevent significant reductions in Medicaid Waivers through new monies, but also required that states maintain the same eligibility rules and services that were in effect on June 20, 2008. Approved funding for **MR and DD Waiver** slots for the FYs 2009-2011 resulted in the following:

Legislative Budget Actions	Number of Waiver Slots Funded		
	FY 09	FY 10	FY 11
MR/ID Waiver Slots for Money Follows the Person	75	110	110
DD Waiver slots for Money Follows the Person	30	15	15
MR/ID Waiver slots	400	200	---

While the allocations for **MR/ID Waiver slots** are meaningful, the rate of state funding still is not commensurate with the rate of waiting list growth, assuring that the Commonwealth will continue to lag significantly behind identified need. Despite significant growth in the DD Waiver waiting list, no additional funding was appropriated for **DD waiver slots** other than the very limited number targeted to the Money Follows the Person initiative. This again demonstrates the need for a state agency to address the needs (funding, policy, planning, and programmatic) of individuals with developmental disabilities as a whole, not just those with intellectual disabilities.

In response to advocacy efforts, the 2009 General Assembly passed HB 1853, which expressed the General Assembly’s intent to gradually phase-in additional slots to end the waiting lists for both the DD and MR/ID Waivers. This bill requires the Governor to develop a plan to eliminate the urgent care waiting list for the MR/ID Waiver and the waiting list for the DD Waiver by the 2018-20 biennia. The plan must include strategies for reducing the number of individuals with disabilities on those wait lists by 20% beginning in the 2010-12 biennium. The bill requires the plan to be submitted to the chairs of the Joint Commission on Health Care and the House Appropriations and Services Committees by October 1, 2009.

An historic shift took place in the 2009 legislature that begins to reduce the state’s institutional bias: The DD Council joined with The Arc of Virginia, and its DD Network Partners, the Partnership for People with Disabilities and the Virginia Office for Protection and Advocacy to establish the Virginia Alliance for Community. The Alliance, as it came to be known, advocated for the redirection of capital outlay funds designated for the renovation of the Central Virginia (CVTC) and Southeastern Virginia Training Centers (SEVTC) to community based housing for their residents. With over 100 supporting organizations, the Alliance worked with representatives of the Governor’s office and the General Assembly to further this action.

Ultimately, some but not total success was achieved by the Alliance. For the first time, capital outlay funds were designated for creation of community-based residences. The Governor's proposals for Southeastern Virginia Training Center (SEVTC) and Central Virginia Training Center (CVTC) were greatly modified by the General Assembly and attracted considerable public and media attention. His original budget amendments shifted \$18.5 million of \$43 million in CVTC capital outlay funds from renovation of current buildings to creation of community housing for CVTC residents. Governor Kaine also proposed the closure of SEVTC and the redirection of its capital outlay funds to community housing for its residents.

After much debate, the General Assembly approved building a smaller 75-bed SEVTC facility and diverted \$10 million of the \$18.5 million proposed for community housing for CVTC residents toward the downsizing of SEVTC, leaving \$8.5 million for community housing at CVTC. The General Assembly tasked DMHMRSAS to develop plans, in collaboration with an inter-agency and stakeholder team, to build a 75-bed facility for SEVTC residents and build community housing for other SEVTC residents who would be transitioned to community housing by 2010. Companion amendments in the budget: a.) enabled continued operation of SEVTC during the construction and transition period; and b.) required state agencies to fast track licensing and certification of community facilities. While these measures were considerably less than community integration advocates had encouraged, they did mark a significant, even historical, change in priorities for the Commonwealth.

In 2007, the Joint Commission on Health Care (JCHC) held a number of meetings as a means to discuss creation of a statewide office to serve persons with autism spectrum disorders (ASD). The DD Council, the UCEDD and other partners strongly advocated for the movement towards a developmental disabilities system rather than focusing on a specific disability as has been done in the past. The stakeholder group agreed to this in concept. The General Assembly passed HJ 105, which required that a legislative study on best practices in autism conducted by the Joint Legislative and Audit Review Commission (JLARC); and this study is scheduled to be released in June 2009. In addition, at the request of the legislature, the Secretary of Health and Human Resources held meetings to develop an implementation plan regarding an office to coordinate services for persons with autism and other developmental disabilities. It was determined that the Department of Mental Health, Mental Retardation, and Substance Abuse (DMHMRSAS) would serve as the state agency responsible for developmental disabilities, including autism. The Governor budgeted and the 2009 General Assembly approved funding (\$215,000, GF) to create two new positions within DMHMRSAS, one for an expert in autism services and another for developmental disabilities (DD). The positions, which will begin in FY 2010, will be responsible for the development of a coordinated approach to serving people with DD, including those with ASD.

In 2009, the legislature considered last year's bill to substitute "intellectual disabilities" (ID) for "mental retardation" (MR) in state statutes and operations for reaffirmation. Due to concerns raised about eligibility for certain federal funding streams, the bill was not reaffirmed and thus not enacted. Nevertheless, the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) changed the name of the Office of Mental Retardation temporarily to the Office of Intellectual Disabilities Services (OIDS). To reflect its

expanded mission, the Department, with public input, changed its agency name to the Department of Behavioral Healthcare and Developmental Services (DBHDS), which was effective July 1, 2009. The OIDS, in turn, changed its name to Office of Developmental Services. It is anticipated that advocates will continue to strongly pursue a complete transition from the use of “MR” to “ID”.

**EARLY INTERVENTION:** Services addressing the needs of infants and toddlers with disabilities have expanded and improved. From FY 2003-2008, the General Assembly provided significant increases in financial support for Part C services, raising the annual General Fund allocation from \$125,000 to \$7,203,676. Consideration was given to moving the Part C system from DMHMRSAS to the Department of Health, but stakeholder concerns reversed course on this proposed action. DMHMRSAS (now DBHDS) and the Department of Health are working closely, however, to coordinate and improve services to infants and toddlers.

**EDUCATION:** Between FY 2006 and 2007, funding for special education services for student with disabilities increased by 15 percent. The *State School Report Card* for 2006-2007 indicates that only 3 percent of core academic classes were taught by teachers not meeting the federal definition of “highly qualified”, although the percentage was higher (5 percent) in high poverty areas. VDOE has also continued a focus on better measurement of educational outcomes of students with significant disabilities and on improving services to students with autism.

Over the past two years, to address 2006 changes in federal regulations, the VDOE has obtained, and continues to seek, public comment on its draft revision of *Regulations Governing Special Education Services for Children with Disabilities*. The current draft (Spring 2009) includes some positive provisions such as maintaining age 14 as the point at which transition services must be provided and reinstating parental consent provisions which had been proposed for removal. In response to parents’ concerns, the 2009 General Assembly enacted a code change to ensure a 180-day statute of limitations for appeals of the due process hearing rather than a proposed shortening from 1 year to 90 days. Through the Board’s Virginia Special Education Network, parents and other advocates were kept informed of public hearings and of the public comment process. VDOE reported its highest level of public comment ever – over 30,000 responses. At the time of this update, a final 30 day public comment period was in progress.

The 2009 legislature also approved a joint resolution, which was initiated and championed by the Board’s Youth Leadership Forum (YLF) alumni, to designate October as Disability History and Awareness Month in Virginia’s public schools. YLF alumni have been invited by VDOE to assist in developing appropriate curriculum for its observance to begin in fall 2009.

**EMPLOYMENT.** An important step was taken by the 2008 General Assembly to eliminate the significant disparity between the supported employment rates paid under Medicaid home and community-based waivers versus the much higher rates paid by the vocational rehabilitation system. Passage of budget language required the Department of Medical Assistance Services (DMAS) to “realign the rates paid for individual supported employment

provided under Medicaid home- and community-based waivers to the same level paid by DRS to employment services organizations.” This change, effective July 1, 2008, also requires that DMAS change its rates whenever DRS does so.

To underscore his commitment to employment opportunities for qualified individuals with disabilities, in 2007 the Governor appointed a full-time Special Advisor on Disability Issues in the Workforce. The Special Advisor works with appropriate state committees, such as the Olmstead Commission, and has teamed up with the State Workforce Office and the Virginia Workforce Council to ensure that employees with disabilities are part of the workforce planning process. In addition, the Governor signed *Executive Directive No. 8* on October 23, 2007. This Directive instructs all executive branch state agencies and state-funded institutions of higher education to examine their hiring practices and to remove any barriers that may be preventing qualified applicants with disabilities from becoming employed in state government. All state agencies are required to report to the Secretary of Administration annually on progress towards implementing this directive.

**HEALTHCARE.** In 2006, through a federal grant and seed money from DMHMRSAS (now DBHDS), Medical Home Plus was created in Central Virginia to improve care coordination for children with disabilities and special health needs. Medical Home Plus has continued its efforts on behalf of families and children through a coalition involving pediatric practices, Care Connection for Children, Family Voices, Parent to Parent, the Department of Health, and the Virginia Chapter of the American Academy of Pediatrics. In 2007, a dental summit and two major conferences were held, both of which addressed improving medical care to individuals with disabilities. Administration of the Health Promotions for People with Disabilities (HPPD), a project funded by the federal Centers for Disease Control to address health and wellness needs, was moved from the Virginia Department of Health (VDH) to the VCU Partnership for People with Disabilities.

The **Governor’s Commission on Health Reform** conducted a comprehensive study during 2006-2007 and published its report in fall 2007. This report identified major trends and issues in areas that included but were not limited to workforce development, prevention, long-term care, and transparency and made numerous specific recommendations on how to improve service delivery in the coming decade. This report continues to guide efforts to address these issues.

**EMERGENCY PREPAREDNESS:** During FY 2006-2007, progress occurred at many levels to improve inclusion of persons with disabilities in developing emergency plans and in sheltering-in-place. In 2006, considerable efforts were made to include individuals with disabilities in statewide Community Based Emergency Response Seminars held by the interagency delegation to the “Working Conference on Emergency Management and Individuals with Disabilities and the Elderly”. The Virginia Department of Emergency Management (VDEM) continues to promote participation by people with disabilities in the creation of policies and procedures that will affect them. VDEM also created a Vulnerable Populations Committee, chaired by Disability Services Agency staff members, which provides planning leadership to ensure needs of individuals with disabilities are addressed during disasters. The Office of

Commonwealth Preparedness assembled regional teams that include individuals with disabilities to develop preparedness and shelter plans.

## **SYSTEM CHALLENGES and AREAS of CONCERN**

All of the positive steps, and many more not reflected above, are important components to enabling people with disabilities in Virginia to experience maximum independence and inclusion into all facets of community life. Despite these encouraging developments, however, Virginia's service system for persons with disabilities has significant shortcomings that must be addressed by its citizens, policymakers, advocates, and providers. Many of the key issues, identified through the Board's 2006 and 2008 *Biennial Assessment* remain unresolved. Additional details on these and many other critical issues and challenges, including source/reference information are available in the 2008 edition.

One major external threat to the disability services system emerged during FY 2009 – the growing depth and breadth of the national recession, which resulted in a severe drop in state revenues that is continuing. As a result, Governor Kaine instituted state agency budget cuts in fall of 2008 and again in 2009. As of this report, he has announced the need for additional cuts during FY 2010. While the federal stimulus package in 2009 significantly ameliorated proposed cuts to Medicaid and other human services during FY 2010, no new federal funds are likely in the future.

- **System fragmentation**, low provider rates, inadequate person centered practices, and the **service “silos”** remain significant obstacles to effective planning, coordination, delivery, and oversight of state funded services. Virginia's disability service system is structured around historical definitions of disability or within very specific **service “silos”** based on either disability or type of service. Services are administered in highly compartmentalized systems at both the state and local levels. Over 15 state agencies are responsible for hundreds of separately administered local offices, boards, councils, commissions, programs, and other entities. The system has so many different sources of information and points of entry and access that it is difficult to understand, monitor and utilize the service. Although DBHDS (formerly DMHMRSAS) assumed responsibility for policy development, service planning, or service provision for individuals with DD in July 2009, the transition process is likely to be lengthy. Creation of this DD agency, which has been long awaited, must be recognized as being in its infancy and as having limited impact on reducing silos in the near future. An example of the challenges associated with development of a comprehensive service system is the proposal to establish an autism-specific Medicaid waiver now under discussion.
- Funding for state agency staff to provide the **licensure and quality assurance oversight** essential to ensuring citizen safety and service effectiveness has not kept pace with increases in the level of community services. Proposed increases in licensure staff were eliminated in state budget actions to the revenue shortfall during the recession; and at DBHDS (formerly DMHMRSAS), five established licensure positions were lost.

- Funding for **community based vs. institutional services** for persons with developmental disabilities in Virginia still lags behind most of the nation. The *2008 State of the State in Developmental Disabilities* by the Coleman Institute of the University of Colorado reports that Virginia is 46<sup>th</sup> out of 51 (50 states plus the District of Columbia) in community spending per \$1,000 of aggregate statewide personal income. Between FY 2004 and 2007, the number of youth under age 21 served in nursing homes/facilities declined significantly, but the number of residents increased by 4 percent overall, primarily among adults ages 21-64 years. Lengthy waiting lists remain for the Mental Retardation and Developmental Disabilities Waivers, with funds lagging well behind established and projected needs. Several factors - low wages paid to direct care workers, inequitable rates paid by different agencies to providers of the same services, and low reimbursement rates – appear to restrain the expansion of community infrastructure. A continuing widespread misperception is that persons with significant disabilities, particularly those with complex medical needs, cannot be served in other than an institutional setting.
- In the **early intervention system** for infants and toddlers, ongoing documented challenges include: significant variability of services among localities statewide, in terms of both availability and quality; inconsistent application of requirements for eligibility, evaluation, service plan development and monitoring; and a lack of qualified providers, in part due to low provider rates and the reimbursement structure. Virginia still lags behind other states in the percentage of eligible children served, particularly those served between birth and age one.
- For **school age children**, there remain significant disparities between students with and without disabilities in academic achievement and graduation rates. Among the many **continuing challenges** affecting families and students with disabilities are access to the general curriculum by students with severe disabilities, appropriate inclusion of these students in the state's accountability system, receipt of services in the least restrictive environment, low graduation rates, disparity in achievement as compared to students without disabilities, and access to assistive technology.

The proposed **VDOE draft revision of *Regulations Governing Special Education Services for Children with Disabilities*** continues to maintain provisions of concern to the Board and families in that they reduce long-standing parent and student protections. Concerns include, but are not limited to: the lowering of the age through which an educational label of developmental delay can be used and the imposition of stricter and more specific criteria within the disability eligibility definitions which could serve as a barrier to children being identified as eligible for special education services..

- **Employment** of persons with disabilities statewide remains low, with approximately two-thirds of adults (ages 18-64) with disabilities not employed. Vocational services provided by the Department of Rehabilitation Services (DRS) have been under an Order of Selection since 2004, and during FY 2007 and 2008, service eligibility was limited to those individuals with the most significant disabilities. Virginia lags behind other states in its support of

customized and supported employment opportunities, maintaining numerous facility-based, “sheltered” programs.

- Statewide, public and paratransit **transportation services** are often inadequate or unreliable, especially in rural areas, which significantly contribute to dependency - fiscal and personal - for individuals with disabilities. Current planning structures remain disjointed. More importantly, transportation needs assessment and planning too often fail to routinely consider the interests and concerns of persons with disabilities. Quality assurance for transportation provided under the Medicaid brokerage system remains problematic.
- Demand for affordable, accessible **housing** continues to grow while gaps between rising housing costs and limited incomes of people with disabilities continue to widen. Overall, affordable housing options are extremely limited, particularly for accessible housing. Housing continues to frequently be linked to receipt of services, limiting choice and fostering a medical model for service delivery. Efforts to address these problems have been largely ineffective due to inadequate and inconsistent planning and coordination over time and in relation to transportation and other interrelated service needs. Waiting lists for Housing Choice Vouchers remain large (6,633 as of November 2007), and the majority of local public housing authorities (PHAs) have stopped taking applications for this program. Based on DMHMRSAS data, the Static Capacity for Community Services Boards’ intellectual disability residential services increased only 2 percent between FY 2005 and 2008, and the length of wait time ranged from nearly a year (49.5 weeks) for Supported Residential Services to a little over two years (106.4 weeks) for Intensive Residential Services.
- The affordability and accessibility of **health care** and especially the lack of adequate, affordable **dental care for adults with disabilities** is of critical concern. In addition to being a health concern in and of itself, poor dental care is a major contributor to poor general health. Challenges in health care include a shortage of medical and dental providers willing and able to work with individuals with disabilities as well as attitudinal and cultural barriers. Coordination and continuity of care is problematic, particularly for persons with developmental disabilities who have co-occurring medical or mental health conditions. User-friendly information related to health care and disease prevention is not readily available to persons with disabilities and their families. In the area of **autism**, the 2009 General Assembly considered, but did not pass, a bill that would have mandated that health insurers cover autism therapies, including applied behavioral analysis, for children up through age 21.
- **Emergency preparedness** activities are evolving and improvements are still needed. Individuals with disabilities and advocacy organizations still are not systematically engaged in discussing the contributions that they can make in emergency planning and, typically, have not been invited to participate actively in planning and conducting disaster response training exercises at the local, regional, or state levels. Additional public education on personal emergency plans and available resources is needed for all citizens.

The Board recognizes that the issues noted above represent only a fraction of the challenges faced by persons with disabilities in the Commonwealth and notes again that its 2008 *Biennial Assessment* contains a far more complete description and analysis of these and

other concerns as well as a comprehensive description of Virginia's service system for persons with disabilities.

### ***Identification of Areas of Emphasis***

The Developmental Disabilities (DD) Act identifies nine "Areas of Emphasis" that DD Councils are to address in their state plans according to the needs of the state, input from individuals with disabilities, and the status of service delivery systems. The nine areas of emphasis are:

- ***Child Care***
- ***Education/Early Intervention***
- ***Employment***
- ***Health***
- ***Housing***
- ***Recreation***
- ***Quality Assurance***
- ***Transportation***
- ***Formal/Informal Community Supports***

Historically, Virginia's state plan document has been divided in accordance with the areas of emphasis in which the Council has chosen to work. For the 2007-2011 plan, however, the Council has organized its document by goals rather than areas of emphasis. Many of the Council's goals and objectives are crosscutting and thus reporting them by area of emphasis would result in significant redundancy. The areas of emphasis to which each goal and objective apply are, however, noted.

The DD Council reviewed the extensive public comment received during development of the 2006 and 2008 editions of the *Biennial Assessment* as well as an evaluation conducted of the Council's activities over the past 5 years. The Council also reviewed current commitments and emphases and then embarked upon a strategic planning process designed to identify more clearly where the Council should head in the next 5 years. During FFY 2008, the Board revised or consolidated a number of objectives under its approved goals to improve clarity and focus for activity planning; and these changes were incorporated into the FFY 2009 State Plan Update. The following are the goals and objectives identified for the 2007-2011 State Plan and maintained or revised for FFY 2010.

### ***Goal 1: Promote strategies that support moving people with disabilities from institutions to communities of their choice.***

#### ***Area of Emphasis: Housing (HO)***

**Objective 1:** Promote the development of a state low-income housing subsidy for people with disabilities.

Area of Emphasis: Informal and Formal Community Supports (CS)

**Objective 1:** Increase opportunities for people with disabilities to live in the community.

**Objective 2:** Enhance education, advocacy, and outreach on community living options and transition supports to individuals, family members, and guardians.

**Objective 3:** Promote opportunities for greater community involvement and participation for people currently residing in institutions.

**Goal 2: Promote crosscutting local, regional, and statewide collaboration to build welcoming and accessible communities**

Area of Emphasis: Housing (HO)

**Objective 1:** Increase community living options for people with disabilities by encouraging state and local entities to provide builder incentives to build low-income housing options with access to transportation.

**Objective 2:** Promote the building of multi-family and community housing options using visitability and universal design standards.

Area of Emphasis: Informal and Formal Community Supports (CS)

**Objective 1:** Promote direct support professionals as a valued valid career path.

**Goal 3: Positively influence and impact public policy through coordinated initiatives that promote meaningful inclusion in all aspects of community life.**

Area of Emphasis: Education (ED)

**Objective 1:** Monitor and provide input on legislation, regulations and policy affecting special education and early childhood programs and services.

Area of Emphasis: Employment (EM)

**Objective 1:** Promote implementation of federal, state and local policies that provide employment and create incentives for employment of people with developmental and other disabilities.

Area of Emphasis: Health (HE)

**Objective 1:** Promote the expansion of dental services for adults with disabilities in the Commonwealth.

Area of Emphasis: Housing (HO)

**Objective 1:** Monitor and provide input on legislation, regulations, and policy affecting housing for people with disabilities.

Area of Emphasis: Informal and Formal Community Supports (CS)

**Objective 1:** Promote advocacy and policy work to improve community integration; and monitor and provide public comment on policies and regulations.

Area of Emphasis: Transportation (TR)

**Objective 1:** Monitor and provide input on legislation, regulations, and policy affecting transportation for people with disabilities.

Area of Emphasis: Cross-Cutting (CR)

**Objective 1:** Engage in interagency and inter-organizational liaison activities to promote Board initiatives and to influence the direction of programs/policies with an emphasis upon entities most influential in improving community inclusion.

**Objective 2:** Promote awareness and provide analysis and public comment on current legislative, regulatory, and policy related initiatives to members of the advocacy community, professional networks, and elected and appointed officials at all levels of government.

***Goal 4: Engage in advocacy and outreach to educate communities with the outcome of eliminating barriers that result in discrimination against people with disabilities.***

Area of Emphasis: Cross-Cutting (CR)

**Objective 1:** Provide information on disability issues, events, resources, and services to people with disabilities, their family members, advocates, service providers, policy-makers and the public at-large.

**Objective 2:** Promote successful approaches that are identified and developed through Board funded projects and other initiatives.

***Goal 5: Collaborate to ensure an innovative disability services system through partnerships with community organizations, businesses, and public agencies to leverage wide spread support for full inclusion.***

Area of Emphasis: Education (ED)

**Objective 1:** Effect greater student and family involvement in obtaining adequate and improved transition services for employment and higher education opportunities.

**Objective 2:** Advance systems change by supporting new and creative statewide and community programs, services, and supports for persons with developmental and other disabilities.

Area of Emphasis: Quality Assurance (QA)

**Objective 1:** Engage in interagency and inter-organizational liaison activities to promote disability awareness and to influence the direction of programs and policies in the Commonwealth.

Area of Emphasis: Recreation (RE)

**Objective 1:** Increase supports and outreach that promote greater participation of people with developmental and other disabilities in recreational and social opportunities in their communities.

Area of Emphasis: Transportation (TR)

**Objective 1:** Improve the planning and coordination of transportation at the state, regional and local levels for full inclusion of people with disabilities.

**Objective 2:** Promote the improved quality of public and private transportation services for people with disabilities in the Commonwealth of Virginia.

***Goal 6: Be a catalyst for self determination, choice, and policy influence through leadership and advocacy development.***

Area of Emphasis: Quality Assurance

**Objective 1:** Increase leadership knowledge, skills, and abilities among high school students with developmental disabilities.

**Objective 2:** Promote effective advocacy by parents of children with disabilities and adults with developmental disabilities to influence public policy for system improvement.

**Objective 3:** Encourage and strengthen active engagement in advocacy for system improvements and policy change by Virginians with disabilities and their families.

**Objective 4:** Promote entry of new professionals into the field of disability policy.

**Objective 5:** Establish or strengthen a program for the direct funding of a state self-advocacy organization led by individuals with developmental disabilities.

***Goal 7: Promote innovative approaches to integrated employment of people with developmental and other disabilities.***

Area of Emphasis: Employment

**Objective 1:** Provide business leaders with the incentives, knowledge, and tools they need to hire qualified people with developmental and other disabilities.

**Objective 2:** Increase the use of workplace supports and work incentives to increase integrated employment options for people with developmental and other disabilities.

**Objective 3:** Increase the number of people with disabilities who are in integrated employment through innovative projects, such as customized employment, self-employment and mentoring programs.

## **ASSURANCES**

- A. IN GENERAL. --The plan shall contain or be supported by assurances and information described in subparagraphs (B) through (N) that are satisfactory to the Secretary.
- B. USE OF FUNDS --With respect to the funds paid to the State under section 122, the plan shall provide assurances that--
1. not less than 70 percent of such funds will be expended for activities related to the goals described in paragraph (4);
  2. such funds will contribute to the achievement of the purpose of this subtitle in various political subdivisions of the State;
  3. such funds will be used to supplement, and not supplant, the non-Federal funds that would otherwise be made available for the purposes for which the funds paid under section 122 are provided;
  4. such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;
  5. part of such funds will be made available by the State to public or private entities;
  6. at the request of any State, a portion of such funds provided to such State under this subtitle for any fiscal year shall be available to pay up to 1/2 (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or \$50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency; and
  7. not more than 20 percent of such funds will be allocated to the designated State agency for service demonstrations by such agency that--
    - contribute to the achievement of the purpose of this subtitle; and
    - are explicitly authorized by the Council.
- C. STATE FINANCIAL PARTICIPATION --The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.
- D. CONFLICT OF INTEREST --The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

- E. URBAN AND RURAL POVERTY AREAS --The plan shall provide assurances that special financial and technical assistance will be given to organizations that provide community services, individualized supports, and other forms of assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.
- F. PROGRAM ACCESSIBILITY STANDARDS --The plan shall provide assurances that programs, projects, and activities funded under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulations and all applicable Federal and State accessibility standards, including accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), and the Fair Housing Act (42 U.S.C. 3601 et seq.).
- G. INDIVIDUALIZED SERVICES --The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under the plan will be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individual.
- H. HUMAN RIGHTS --The plan shall provide assurances that the human rights of the individuals with developmental disabilities (especially individuals without familial protection) who are receiving services under programs assisted under this subtitle will be protected consistent with section 109 (relating to rights of individuals with developmental disabilities).
- I. MINORITY PARTICIPATION --The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs funded under this subtitle is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.
- J. EMPLOYEE PROTECTIONS --The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions taken under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and provide training and retraining of such employees where necessary, and arrangements under which maximum efforts will be made to guarantee the employment of such employees.
- K. STAFF ASSIGNMENTS --The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this subtitle and will not be assigned duties by the designated State agency, or any other agency, office, or entity of the State.
- L. NON-INTERFERENCE --The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan

development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 125(d)(3).

- M. STATE QUALITY ASSURANCE --The plan shall provide assurances that the Council will participate in the planning, design or redesign, and monitoring of State quality assurance systems that affect individuals with developmental disabilities.
- N. OTHER ASSURANCES --The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions (including the purpose) of this subtitle.

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