



Joint Subcommittee to Study Mental Health Services in the 21st Century

Work Group 4: Law-Enforcement Officer-Temporary Detention Order/Emergency Custody Order

May 4, 2021, at 1:30 p.m.

Electronic Meeting

http://dls.virginia.gov/interim_studies_MHS.html

Work Group 4: Law-Enforcement Officer-Temporary Detention Order/Emergency Custody Order (the Work Group) of the Joint Subcommittee to Study Mental Health Services in the 21st Century (the Joint Subcommittee) met electronically with Senator T. Montgomery "Monty" Mason, chair, presiding.¹ The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [*Joint Subcommittee's website*](#).

Presentation: Department of Behavioral Health and Developmental Services Update

Alison G. Land, FACHE, Commissioner, Department of Behavioral Health and Developmental Services

Commissioner Land emphasized that state hospital capacities are at dangerously high levels because of closures caused by COVID-19 outbreaks and staffing shortages. She said that this leads to a lack of beds, so if a hospital tries to accommodate a patient when the hospital is at or over capacity, it could leave a patient with no privacy, and therefore open to victimization. Currently, the Department of Behavioral Health and Developmental Services (DBHDS) is taking certain short-term efforts to address delays in transportation of patients, including the statewide implementation of alternate transportation, a 24-hour on-call team, and emergency contracts with providers to divert admissions or to provide stepdown options. Commissioner Land then described DBHDS's long-term efforts, including implementation of the full crisis continuum, implementation of STEP-VA programs, and behavioral health enhancement, and Project BRAVO.

Commissioner Land proposed immediate and future solutions. She said that DBHDS could expand its contract with the security company G4S or incentivize private hospitals to provide sitter or security options, take action to require emergency departments to provide treatment when patient transport is delayed, and continue pilot programs and contract development with private hospitals. Looking forward to fiscal year 2022 and beyond, Commissioner Land said that DBHDS could increase its ability to recruit and retain direct care staff; fund crisis continuum, including crisis receiving centers that include drop-off, crisis intervention, 24-hour observation, and crisis stabilization; continue the implementation of STEP-VA and behavioral health enhancement; and reconsider the future footprint for Central State Hospital.

¹ **Members Present:** Senator T. Montgomery "Monty" Mason (chair), Delegate Patrick A. Hope, Delegate Margaret B. Ransone

Members Absent: Senator R. Creigh Deeds

Presentation: Community Hospital Trends

Jennifer Wicker, Director of Intergovernmental Affairs, Virginia Hospital and Healthcare Association

Much like state hospitals, Ms. Wicker noted that emergency departments and inpatient lengths of stay have increased across all hospital populations. She noted that this is due, in part, to the difficulty in retaining and recruiting sufficient behavioral health staff. Ms. Wicker discussed that special populations are particularly difficult to place. In the case of children and adolescents, the COVID-19 pandemic has caused disruptions that result in delayed community interventions. Additionally, there are only a few pediatric health units in Virginia, and child psychiatrists are especially difficult to recruit.

Ms. Wicker went on to explain that a reduction in behavioral health beds, staff shortages, and increases in patients' lengths of stay have led to a lack of availability of inpatient beds, which, in turn, is causing patients to board in emergency departments. The increase in emergency department boarding can also be attributed to patients' refusal to be tested for COVID-19 and families' preferences to have children admitted closer to home. Ms. Wicker explained that hospitals are adapting to these shifts by admitting patients to medical floors, utilizing more staff to conduct bed searches, beginning patient treatment in the emergency department, increasing coordination between psychiatrists and emergency physicians, and increasing coordination with community services boards (CSBs) for stepdowns. Additionally, Ms. Wicker described various partnerships between hospitals and other programs to help accommodate with longer lengths of stay. Specific partnerships can be found in the meeting materials on the Work Group's website.

Ms. Wicker concluded by presenting three recommendations for addressing the delays in transportation to behavioral health facilities: (i) increase funding to offset costs to travel nurses; (ii) provide funding and authorization to allow alternate transportation providers to sit with patients in the emergency department; and (iii) increase the amount of community-based services to provide support.

Presentation: Virginia Association of Community Services Boards

Jennifer Faison, Executive Director, Virginia Association of Community Services Boards

Ms. Faison told the Work Group that CSBs are aiming to provide objective evaluations, then connect people to lifesaving treatment in the least restrictive environment. She explained that the actual number of temporary detention orders (TDOs) has remained steady over time, but the number of TDOs that private hospitals will admit is declining. She also noted that while there has been a significant increase in the number of TDO evaluations performed, the number of TDOs has remained steady. Ms. Faison explained that funding of STEP-VA and Behavioral Enhancement continues to be very important as there is a need to build community services to address the crisis continuum. Additionally, any new facility that opens must take TDO patients.

Presentation: Virginia Sheriffs' Association Comments Regarding the Emergency Custody and Temporary Detention Process

John Jones, Executive Director, Virginia Sheriffs' Association

Mr. Jones reiterated that beds are needed to admit patients who need behavioral health services to avoid the sometimes days-long wait for an admission to a state hospital. He recommended that three immediate actions be taken to address these delays. First, he recommended that additional public and private beds be created or added to facilities to accommodate the increase in those



who need services. Second, there should be an increase in overtime funds for deputy sheriffs to accommodate the higher-than-average wait times for TDO patients. Third, Mr. Jones explained that alternative transportation should be provided to relieve law-enforcement officers during the TDO process.

Public Comment and Discussion

The members heard public testimony. Anna Mendez noted that the biggest priority should be the needs of individual people instead of the needs of law-enforcement officers when they are assisting with TDOs. She also emphasized that there should be more community services to reduce the number of inpatient beds needed. Bruce Cruiser echoed Ms. Mendez's comments, adding that the solution is to reduce the need for hospitalization by offering more community services up front. Jonathan Green from the Office of the Executive Secretary of the Supreme Court of Virginia then offered comments about the role of magistrates in the TDO process.

The Work Group then discussed what actions should be taken moving forward. The members directed staff to follow up with Ms. Wicker and DBHDS about statistics regarding patients' length of stay in hospitals while under an emergency custody order (ECO) or TDO, including how long people are waiting, what the legal authority is to hold them, whether the ECO or TDOs are expiring, and what happens when they expire. Senator Mason asked Mr. Jones from VSA to survey sheriffs to see where the delays in transportation are occurring most frequently, as well as which areas are seeing shorter wait times or not experiencing as much of an issue.

Delegate Patrick A. Hope stated that he would like to have a proposal for funding to fully staff the available beds in areas where it is needed the most. This would include finding hospitals with licensed-but-not-filled beds, figuring out what staff levels are needed, determining how much it would cost, and then conditioning that funding on ensuring the facility uses the beds for TDOs.

Senator Mason noted he would like to see a proposal to support telehealth as a part of treatment. He explained that this could link the effort to improve how patients are treated in the emergency department while waiting with the effort to eliminate the need for beds if patients are able to be treated on an outpatient basis. Delegate Margaret B. Ransone agreed and added that telehealth would assist in focusing on the treatment given while the patient is in the emergency department.

The meeting concluded with an agreement that Ms. Faison would examine the DBHDS Drop-Off Center report and identify future action items, Commissioner Land would continue to keep the group up to date about the new discharge planning processes, and staff members would identify what funds are available through the federal American Rescue Plan Act of 2021.

The meeting concluded at approximately 3:30 p.m. The next meeting will be held at a date and time to be determined.

For more information, see the [Joint Subcommittee's website](#) or contact the Division of Legislative Services staff:

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