

# 2021 SPECIAL SESSION I

## SENATE SUBSTITUTE

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### HOUSE BILL NO. 1808

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 11, 2021)

(Patron Prior to Substitute—Delegate Orrock)

A BILL to amend and reenact § 37.2-304 of the Code of Virginia, relating to Commissioner of Behavioral Health and Developmental Services; reports to designated protection and advocacy system.

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-304 of the Code of Virginia is amended and reenacted as follows:

#### § 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities ~~and, within 15 working days of such critical incident or death;~~ (ii) ~~serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death~~ serious incidents and deaths that are required to be reported to the Department through its incident reporting system, as required by regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within 15 working days of the date the report is received; and (iii) allegations of abuse or neglect that are required to be reported pursuant to regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within five working days of the date on which the director's final decision on the allegation is reported to the Department.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

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60 11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to  
61 § 37.2-312.2.

62 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and  
63 the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and  
64 Appropriations that provides information on the operation of Virginia's publicly funded behavioral health  
65 and developmental services system. The report shall include a brief narrative and data on the number of  
66 individuals receiving state facility services or community services board services, including purchased  
67 inpatient psychiatric services; the types and amounts of services received by these individuals; and state  
68 facility and community services board service capacities, staffing, revenues, and expenditures. The  
69 annual report shall describe major new initiatives implemented during the past year and shall provide  
70 information on the accomplishment of systemic outcome and performance measures during the year.

71 13. To establish a comprehensive program for the prevention and treatment of problem gambling in  
72 the Commonwealth and administer the Problem Gambling Treatment and Support Fund established  
73 pursuant to § 37.2-314.2.

74 Unless specifically authorized by the Governor to accept or undertake activities for compensation, the  
75 Commissioner shall devote his entire time to his duties.