



Virginia Department of
Behavioral Health &
Developmental Services

Licensure & Regulation of Congregate Care Providers

DBHDS Office of Licensing

Emily Bowles
Associate Director
Office of Licensing

DBHDS Vision: A life of possibilities for all Virginians

DBHDS Office of Licensing

- **OUR ROLE:** To license providers of developmental services, substance use disorder services and mental health services in accordance with Code of Virginia § 37.2-404
- **OUR MISSION:** To be the regulatory authority for DBHDS licensed service delivery system through effective oversight.
- **OUR VISION:** The Office of Licensing will provide consistent, responsive, and reliable regulatory oversight to DBHDS licensed providers by supporting high quality services to meet the diverse needs of its clients.



Licensed Providers

What is a Provider?

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, developmental disabilities, or substance abuse or (ii) residential services for persons with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to § 54.1-3501, 54.1-3601, or 54.1-3701.

"Service or services" means:

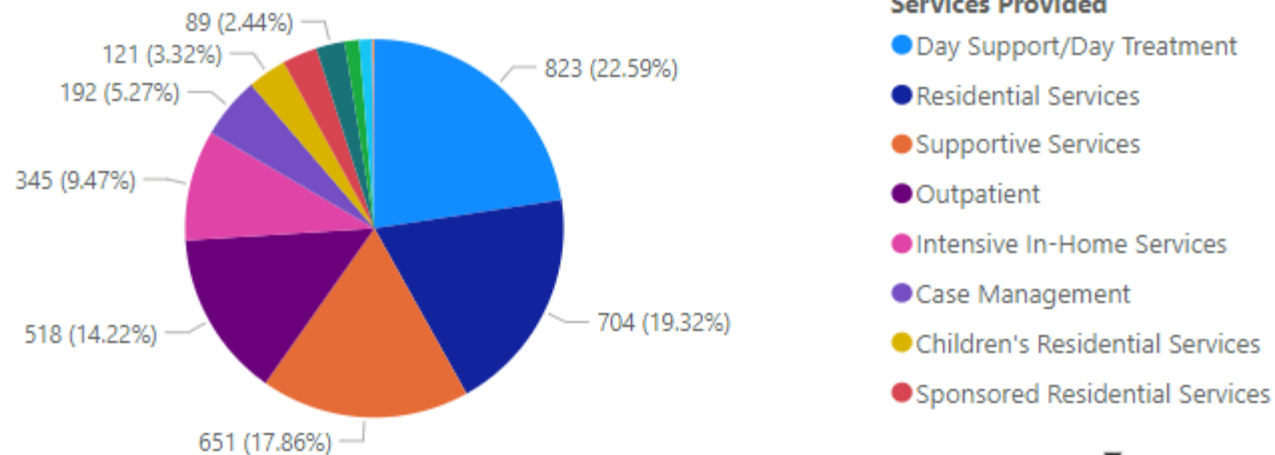
1. Planned individualized interventions intended to reduce or ameliorate mental illness, developmental disabilities, or substance abuse through care, treatment, training, habilitation, or other supports that are delivered by a provider to persons with mental illness, developmental disabilities, or substance abuse. Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment, and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, special school, halfway house, in-home services, crisis stabilization, and other residential services; and
2. Planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports provided in residential services for persons with brain injury.

Current Provider Count

- Total Licensed Providers: 1,427
- Total Licensed Services: 3,645
- Total Licensed Locations: 11,324
- 23% of licensed services and 20% of licensed locations are congregate settings

Count of Providers and Services

Count by Service



Adult Congregate Care Services

DBHDS licenses **712** adult residential services and **2,139** adult residential service locations.

Description	Number of Licenses	Number of Locations
DD Group Home Service	530	1,607
Group Home – REACH	15	32
ICF-IID	19	66
Brain Injury Residential	2	7
DD Supervised Living	27	166
MH Supervised Living	20	105
MH Crisis Stabilization- Residential	24	28
DD Residential Respite	24	28
DD Group Home – REACH	2	4
SA Clinically Managed High Intensity Residential	24	39
SA Specific High Intensity Residential	2	4
SA Clinically Managed Low Intensity Residential	23	53
Total	712	2,139

Children's Congregate Care Services

- DBHDS licenses **125** children's residential services and **129** children's residential service locations.

Description	Number of Licenses	Number of Locations
DD Children's Group Home	21	21
ICF-IID for Children & Adolescents	2	2
Residential Treatment Facility for Children & Adolescents	26	32
MH Therapeutic Group Home for Children and Adolescents	74	72
SA Clinically Managed Medium Intensity Residential Service	2	2
Total	125	129

Significant Provider Growth Over Past 10 Years

- Since FY 2012, there has been a **92%** increase in the number of licensed providers, **96%** increase in the number of licensed services and **80%** increase in the number of DBHDS licensed locations.

Overview of Licensing Statistics in FY 2020				
Fiscal Year Change:	2012	2018	2020	Current
Licensed Providers	744	1,071	1,290	1,427
Licensed Services	1,860	2,780	3,200	3,645
Licensed Locations	6,302	8,778	10,753	11,324

Licensing Office Structure

Licensing Specialists

- Licensing specialists (LS) conduct Code mandated inspections and complaint investigations.
- LS provide technical assistance to providers and process modifications for providers to add new services and to add new service locations.
- In Virginia, the average caseload for licensing specialists is
 - 106 services and 339 locations.
 - significantly greater than the national average reported by the National Association of Rehabilitation Providers and Agencies (88 facilities per specialist) and over three times the number of locations reported the Pennsylvania Office of Developmental Programs (100-120 locations per licensing specialist).

New Applicant Review Unit

- Policy review specialists (PRS) review applications and required attachments to ensure submitted materials comply with the Licensing Regulations.
- Applicants submit an initial application through CONNECT provider portal.
- 406 applications currently under review.
 - Average caseload for a PRS is 101 applications.
 - In 2021 Policy Review Specialists (PRS) initiated the review of 349 new applicants .

Code Mandated Application process

- **Initial Applications:** Reviews applications and licenses new providers pursuant to Code of Virginia § 37.2-404.
- **Application Process:**
 - Historically, OL has processed new applications in the order received.
 - In Fall of 2021 OL began to prioritize application reviews for needed services within the Commonwealth. There is currently no waiting list for applications of prioritized services.
 - Once PRS approves application packet, application is assigned to a licensing specialist for an onsite inspection, if appropriate, prior to licensure.
- OL is currently in the process of implementing multiple initiatives to reduce the amount of time it takes to license initial applicants, or prioritized services, to support one of Commissioner Smith's key goals in his North Star Plan.

Incident Management Unit (IMU)

- Established in 2019 in response to recommendations contained within the Office of the State Inspector General's Review of Serious Injuries Reported by licensed providers of developmental services and also to align with Federal CMS expectations regarding triage or critical incidents in a timely manner.
- IMU receives and reviews incidents within 1 business day. They ensure providers have responded to incidents properly and refer incidents to investigators if there are concerns.
- The IMU processed 22,424 serious incidents between 7/1/2021-6/30/2022.

Specialized Investigation Unit (SIU)

- The SIU reviews and investigates deaths of individuals with developmental disabilities (began 1/1/20) and completes complaint investigations for individuals with developmental disabilities (began 7/1/20).
- All death investigations are completed within 45 days of the death of the individual.
- The SIU Manager participates and is a key member on the Mortality Review Committee (MRC). The MRC conducts mortality reviews of individuals with a developmental disability who receive services in a licensed setting or in a state facility. This committee also makes recommendations to reduce the incidence of potentially preventable deaths.

Total of all SIU investigations since creation in Oct 2019 - Nov 11, 2021=
1620

Code Mandated Office Functions

Code Mandated Office Functions Continued

- During FY 22, the OL processed 815 complaints.
- **Complaint Investigations:** Pursuant to § 37.2-411, the Commissioner shall promptly investigate all complaints.
 - A small percentage of complaints constitute imminent danger.
 - If a licensing specialist receives a complaint where it is believed that there is an immediate and substantial threat to the health, safety or welfare of the individuals receiving services, the licensing specialist shall:
 - Verify APS or CPS has been contacted;
 - Notify the Office of Human rights;
 - Immediately address their concerns with the provider; and
 - Complete an onsite visit within 1 business day and will request that the provider develop and commit to a corrective action plan during the onsite inspection.

Code Mandated Office Functions Continued

Inspections:

- Pursuant to Virginia Code § 37.2-411, the Commissioner or his authorized agents shall make at least one annual unannounced inspection of each service offered by each licensed provider. Inspections shall be focused on preventing specific risks to individuals receiving services, including an evaluation of the physical facilities in which the services are provided.
- In addition, per 12VAC35-105-70.A, the department shall conduct an announced or unannounced onsite review of all new providers and services to determine compliance with this chapter.

FY 2021 Licensing Inspections Conducted by DBHDS	
Type of Visit	Number
Complaint Investigation	1006
Consultation	1823
Health and Safety CAP visits	243
Unannounced Visits	3421
Serious Incident investigations	862
Death Investigations	1143
Deaths of individuals with DD	695
Service Modification Visits	1029

Code Mandated Office Functions Continued

- **Sanctions:** Pursuant to § 37.2-419, the Commissioner may take the following actions to sanction public and private providers licensed or funded by the Department :
 - 1. Place any service of any such provider on probation upon finding that it is substantially out of compliance with the licensing or human rights regulations and that the health or safety of individuals receiving services is at risk.
 - 2. Reduce licensed capacity or prohibit new admissions when he concludes that the provider cannot or will not make necessary corrections to achieve compliance with licensing or human rights regulations except by a temporary restriction of its scope of service.
 - 3. Require that probationary status announcements and denial or revocation notices be of sufficient size and distinction and be posted in a prominent place at each public entrance of the affected service.
 - 4. Mandate training for the provider's employees, with any costs to be borne by the provider, when he concludes that the lack of training has led directly to violations of licensing or human rights regulations.
 - 5. Assess civil penalties of not more than \$500 per violation per day upon finding that the licensed or funded provider is substantially out of compliance with the licensing or human rights regulations and that the health or safety of individuals receiving services is at risk.
 - 6. Withhold funds from licensed or funded providers receiving public funds that are in violation of the licensing or human rights regulations upon finding that the licensed or funded provider is substantially out of compliance and that the health or safety of individuals receiving services is at risk.

In addition, an application for a license or license renewal may be denied and a full, conditional, or provisional license may be revoked or suspended pursuant to 12VAC35-105-110. A.

Settlement Agreement with United States Department of Justice (DOJ)

DOJ Settlement Agreement

- On January 26, 2012, Virginia and DOJ reached a settlement agreement. The agreement resolves DOJ's investigation of Virginia's training centers and community programs and the Commonwealth's compliance with the Americans with Disabilities Act (ADA) and Olmstead with respect to individuals with intellectual and developmental disabilities.
- OL is responsible for attaining compliance with over compliance 30 indicators, focused primarily on quality improvement, risk management and serious incident reporting.



Regulations & Guidance Documents

Regulations Affecting DBHDS Licensed Congregate Care Providers

[Licensing Regulations \(12VAC35-105\)](#)
[Children's Residential Regulations](#)
[\(12VAC35-46\)](#)



Emergency Regulations in Effect:

- [Amendments to align with ASAM criteria in children's residential facilities](#) (effective 2/20/21 until 02/18/2023);
- [Amendments to align with ASAM criteria](#) (effective 2/20/21 until 02/18/2023); and
- [Amendments to align with enhanced behavioral health services](#) (effective 2/20/21 until 02/18/2023).

Guidance Documents Affecting DBHDS Licensed Congregate Care Providers

- All guidance documents affecting DBHDS licensed congregate care providers are located on the [Virginia Regulatory Town Hall Website](#).

LIC 15	Guidance for Counseling in Medication Assisted/Opioid Treatment (MAT/OTP) Services	3/1/2018	
LIC 16	Guidance for Quality Improvement Plan	11/28/2020	
LIC 17	Guidance for Serious Incident Reporting	11/28/2020	
LIC 18	Individuals with Developmental Disabilities with High Risk Health Conditions	6/1/2020	
LIC 19	Corrective Action Plans (CAPs)	8/22/2020	
LIC 20	Incident Reporting	8/22/2020	
LIC 21	Guidance for Risk Management	8/27/2020	



CONNECT

CONNECT

- OL went live with a brand-new licensing system, CONNECT, on November 3, 2021.
- The goal of the CONNECT system is to provide a Web Portal that will increase efficiency for providers and the Office of Licensing.
- The Web Portal allow providers to electronically submit all required paperwork such as initial applications, license renewal applications, service modifications, corrective action plans (CAPs) and variances.
- CONNECT is automated with specific workflows which will streamline the licensing processes and improve the transparency of data and communication with Office of Licensing staff, providing real-time information exchange and 24/7 account access.

