

disABILITY LAW CENTER

OF VIRGINIA



Protection & Advocacy for Virginians with Disabilities

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May 26, 2022

Via email and first class mail

Commissioner Nelson Smith
Department of Behavioral Health and Developmental Services
1220 Bank Street
Richmond, Virginia 23219

Re: Critical Incident Reports review

Dear Commissioner Smith,

The disAbility Law Center of Virginia is the designated Protection and Advocacy organization for the Commonwealth of Virginia. dLCV routinely monitors DBHDS-operated institutions. As part of that monitoring, we collect and analyze data from DBHDS. We recently completed an analysis of critical incidents for federal fiscal year 2021 (as reported through the PAIRS system), which raised concerns that we would like to bring to your attention.

State mental health facilities continue to struggle with reporting requirements mandated by state law. We are working with individual hospitals to address specific concerns.

Most importantly, as reported in our previous reviews, we believe that the “hospital of last resort” legislation continues to place an unreasonable burden on state mental health facilities, to the serious and sometimes deadly detriment of those patients who should be in more appropriate medical settings. The data described in this report continues to support that concern.

As you may know, dLCV has raised the alarm for many years about the number of people being held in the state system who are “ready for discharge,” but who lack appropriate community placements. As well, recent media reports have also described the number of patients with dementia, inappropriately within the state mental health system hospital. In our view, inappropriate placements and the failure to discharge are to blame for the staffing and bed shortage crises so constantly dogging the Department of Behavioral Health and Developmental Services. These factors will undoubtedly require a significant legislative response to correct.

dLCV stands ready to work with you to assist legislative policy makers to understand the need for reforms.

We intend to publish this report on our website and social media by July 1, 2022. We would be happy to publish any response that you may have, either at that time or whenever you are able to respond. Please direct any response to Rebecca Herbig, Esq.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Colleen Miller', written in a cursive style.

V. Colleen Miller
Executive Director

cc via email:

Angela Harvell, Deputy Commissioner
Alvie Edwards, Assistant Commissioner
Walton Mitchell, Assistant Commissioner