

# Recommendations: Virginia’s State Psychiatric Hospitals

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## Recommendations

### RECOMMENDATION 1

The General Assembly may wish to consider amending the Code of Virginia, which defines “mental illness” for the purpose of temporary detention orders and civil commitments, to specify that behaviors and symptoms that are solely a manifestation of a neurocognitive disorder, as determined through an appropriate evaluation by a mental health professional who is competent in the assessment of psychiatric illnesses in individuals with neurocognitive disorders, are excluded from the definition of mental illness, and therefore, are not a basis for placing an individual under a temporary detention order or committing them involuntarily to an inpatient psychiatric hospital. The legislation’s effective date should be delayed until July 1, 2025. (Chapter 2)

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### RECOMMENDATION 2

The General Assembly may wish to consider amending the Code of Virginia, which defines “mental illness” for the purpose of temporary detention orders and civil commitments, to specify that behaviors and symptoms that are solely a manifestation of a neurodevelopmental disorder, as determined through an appropriate evaluation by a mental health professional who is competent in the assessment of psychiatric illnesses in individuals with neurodevelopmental disorders, are excluded from the definition of mental illness, and therefore, are not a basis for placing an individual under a temporary detention order or committing them involuntarily to an inpatient psychiatric hospital. The legislation’s effective date should be delayed until July 1, 2025. (Chapter 2)

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### RECOMMENDATION 3

The General Assembly may wish to consider amending the Code of Virginia to give state psychiatric hospitals the authority to (i) have a licensed psychiatrist or other licensed mental health professional reevaluate an individual’s eligibility for a temporary detention order before they are admitted if the facility has reason to believe that their symptoms and behavior are solely a manifestation of a neurocognitive or neurodevelopmental disorder, and (ii) deny admission to individuals for whom this is found to be the case. The legislation’s effective date should be delayed until July 1, 2025. (Chapter 2)

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#### **RECOMMENDATION 4**

The General Assembly may wish to consider including language in the Appropriation Act directing the secretary of health and human resources to (i) evaluate the current availability of placements for individuals with neurocognitive and neurodevelopmental disorders who would otherwise be placed in a state psychiatric hospital, (ii) identify and develop alternative strategies to support these patient populations, including through, but not limited to, enhanced Medicaid reimbursements and a Medicaid waiver for individuals with neurocognitive disorders, and (iii) report the results of its work to the House Appropriations and Senate Finance and Appropriations committees no later than October 1, 2024. (Chapter 2)

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#### **RECOMMENDATION 5**

The General Assembly may wish to consider amending the Code of Virginia to allow state psychiatric hospitals to delay admission of an individual under a temporary detention order until the state psychiatric hospital has determined that the individual does not have urgent medical needs that the state hospital cannot treat. (Chapter 2)

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#### **RECOMMENDATION 6**

The Department of Behavioral Health and Developmental Services should take immediate steps to expedite the development and implementation of an information technology system that will allow for the secure electronic transfer of patient documents between community services boards and inpatient psychiatric hospitals and provide monthly progress reports on this work to the Behavioral Health Commission. (Chapter 2)

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#### **RECOMMENDATION 7**

The General Assembly may wish to consider including language and funding in the Appropriation Act directing the Department of Behavioral Health and Developmental Services to establish a program for state-licensed psychiatric hospitals (commonly referred to as “private psychiatric hospitals”) to provide funding for those hospitals that agree to increase the percentage of involuntary inpatient admissions they accept and demonstrate the need for funding to safely admit such patients. Funds could be provided to cover one-time and ongoing costs for creating and filling additional security positions, providing staff training on how to safely treat these patients, and making safety improvements to the facilities. (Chapter 3)

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#### **RECOMMENDATION 8**

The General Assembly may wish to consider including language and funding in the Appropriation Act to expand the discharge assistance provided by the Department of Behavioral Health and Developmental Services (DBHDS) to individuals facing substantial barriers to discharge from inpatient psychiatric units and facilities licensed by DBHDS (commonly referred to as “privately operated”). (Chapter 3)

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### **RECOMMENDATION 9**

The Virginia Department of Health should develop and implement a process to (i) determine whether all healthcare providers that were granted a certificate of public need based at least partially on their commitment to accept patients under a temporary detention order (TDO) are fulfilling this commitment, and (ii) take appropriate remedial steps to bring providers who are determined to not be fulfilling their commitment into compliance. (Chapter 3)

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### **RECOMMENDATION 10**

The General Assembly may wish to consider amending § 32.1-102.4 of the Code of Virginia to require the commissioner of the Virginia Department of Health to condition the approval of any certificate of public need for a project involving an inpatient psychiatric service or facility on the agreement of the applicant to accept patients under a temporary detention order whenever the provider has the capacity and capability to do so. (Chapter 3)

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### **RECOMMENDATION 11**

The Department of Behavioral Health and Developmental Services (DBHDS) should seek clarification from the Office of the Attorney General regarding whether the commissioner of DBHDS has the legal authority pursuant to 12VAC35-105-50.B to require providers of inpatient psychiatric services to admit patients under a temporary detention order or civil commitment order if the provider has the capacity to do so safely. (Chapter 3)

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### **RECOMMENDATION 12**

The General Assembly may wish to consider amending the Code of Virginia to grant state psychiatric hospitals the authority to decline to admit any individual under a temporary detention order if doing so will result in the hospital operating in excess of 85 percent of its total staffed capacity. The legislation's effective date should be delayed until July 1, 2025. (Chapter 3)

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### **RECOMMENDATION 13**

The Department of Behavioral Health and Developmental Services should collect quarterly data on (i) the median length of time forensic patients in the state psychiatric hospitals have waited to be evaluated for discharge eligibility once the patient's treatment team has referred them for evaluation and (ii) the number of forensic patients who have been referred for a forensic evaluation but have not received one in a timely manner, and report such data to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission. (Chapter 4)

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#### **RECOMMENDATION 14**

The Department of Behavioral Health and Developmental Services should determine the number of additional forensic evaluator positions, if any, needed to prevent delays in forensic evaluations for patients in state psychiatric hospitals and the amount of funding needed for those positions and request that the additional positions and funding for them be included in the 2025–2026 budget introduced by the governor in December 2024. (Chapter 4)

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#### **RECOMMENDATION 15**

The Department of Behavioral Health and Developmental Services should formally solicit proposals from state-licensed psychiatric hospitals or units in Virginia to admit (i) individuals placed under a temporary detention order while in a local jail and (ii) criminal defendants determined to need inpatient competency restoration services, and work with those hospitals that respond to develop a plan and timeline to contract with them to admit forensic patients. (Chapter 4)

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#### **RECOMMENDATION 16**

The Department of Behavioral Health and Developmental Services should (i) work with the Department of Human Resource Management (DHRM) to annually measure, using available DHRM data on state hospital recruitment actions, the amount of time elapsed between when a state hospital position becomes vacant, when the position is advertised, and when the position is filled, (ii) use the results of this analysis to compare hospitals' performance in filling vacancies, especially for nursing and clinical positions that are critical to patient care, and (iii) identify hospitals that appear to be underperforming and provide technical assistance, oversight, and resources to improve such hospitals' ability to fill critical vacant positions in a timely manner. (Chapter 5)

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#### **RECOMMENDATION 17**

The General Assembly may wish to consider including funding in the Appropriation Act to provide salary increases for psychologists, social workers, housekeeping, and food services staff at state psychiatric hospitals that will bring these positions' salaries within 10 percent of the median salary paid to these positions by other health care employers in the region. (Chapter 5)

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#### **RECOMMENDATION 18**

The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Behavioral Health and Developmental Services to report annually to the Behavioral Health Commission on average turnover and vacancy rates and salary competitiveness, by hospital and position type, for the state's psychiatric hospitals. (Chapter 5)

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### **RECOMMENDATION 19**

The General Assembly may wish to include language in the Appropriation Act directing the Department of Human Resource Management to allow state hospitals to define nursing staff (including psychiatric technicians) who work at least 36 hours per week as full-time staff and not require reductions in pay or other benefits among those staff who work at least 36 hours per week. (Chapter 5)

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### **RECOMMENDATION 20**

The General Assembly may wish to consider including funding in the Appropriation Act for the Department of Behavioral Health and Developmental Services to procure scheduling software to assist state hospitals in scheduling nursing shifts. (Chapter 5)

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### **RECOMMENDATION 21**

The General Assembly may wish to include language and funding in the Appropriation Act to (i) increase the number of nursing positions allocated to state psychiatric hospitals to a level that would ensure adequate and safe patient care, as determined in 2022 by the Department of Behavioral Health and Developmental Services (DBHDS) and (ii) appropriate the amount of funding necessary to fill those positions. (Chapter 5)

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### **RECOMMENDATION 22**

The General Assembly may wish to consider including language in the Appropriation Act to direct the Department of Behavioral Health and Developmental Services to (i) contract for an assessment of the adequacy of each hospital's planned and actual staffing levels for key positions affecting facility operations, patient and staff safety, and quality of care; (ii) conduct similar assessments of the adequacy of each state hospital staffing levels at least biennially; and (iii) report the results of the initial and ongoing assessments to the Behavioral Health Commission, and any additional funding needed to address any staffing level deficiencies, to the chairs of the House Appropriations and Finance and Senate Finance and Appropriations committees. (Chapter 5)

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### **RECOMMENDATION 23**

The Department of Behavioral Health and Developmental Services (DBHDS) should study and propose designating certain state psychiatric hospitals or units within them as appropriate to treat only forensic patients and identify the following: (i) which hospitals and units are the most feasible to be reserved for forensic patients, (ii) necessary changes to staffing and facilities, (iii) potential impacts on local law enforcement and jail resources, and (iv) any one-time and ongoing costs that the agency would incur. DBHDS should report the results of this study to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission. (Chapter 6)

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#### **RECOMMENDATION 24**

The General Assembly may wish to consider including language in the Appropriation Act to direct the Office of the State Inspector General (OSIG) to develop and submit a plan to fulfill its statutory obligation to fully investigate complaints received that contain serious allegations of abuse, neglect, or inadequate care at any state psychiatric hospital and to submit the plan to the chairs of the House Health, Welfare, and Institutions and Senate Rehabilitation and Social Services committees no later than June 20, 2024, and thereafter should provide an annual report on the number of complaints received by OSIG alleging abuse, neglect, or inadequate care at any state psychiatric hospitals along with the number fully investigated by OSIG. (Chapter 6)

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#### **RECOMMENDATION 25**

The Department of Behavioral Health and Developmental Services should develop and implement a process to conduct ongoing reviews of the quality of the data reported by state psychiatric hospitals on patient safety and take action to address any deficiencies identified in hospitals' reporting of patient safety incidents. (Chapter 6)

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#### **RECOMMENDATION 26**

The Department of Behavioral Health and Developmental Services should (i) contract with a subject matter expert to conduct an assessment of the therapeutic environment for each state psychiatric hospital including the extent to which staff are using evidence-based practices while interacting with patients, prioritizing those with the highest rates of seclusion and/or restraint, (ii) evaluate whether an alternative to the Therapeutic Options program for patient behavior management would improve staff's ability to safely and effectively prevent and de-escalate patient aggression and minimize the use of seclusion and restraint, (iii) use the results of the assessments to improve the ability of state hospital staff to interact effectively with patients, and (iv) replace current training if a better behavior management program is identified. (Chapter 6)

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#### **RECOMMENDATION 27**

The Department of Behavioral Health and Developmental Services should develop and implement processes to (i) conduct regular reviews of a sample of state psychiatric hospital patient records to evaluate the quality of care patients receive at each state hospital, which should at least include an evaluation of the effectiveness and safety of pharmacological and non-pharmacological treatments; (ii) share observations and conclusions with state hospital leaders; (iii) issue recommendations to each hospital regarding needed improvements in patient care; and (iv) hold state hospitals accountable for correcting the factors that are determined to cause the delivery of ineffective, unsafe, or generally substandard care to patients. (Chapter 7)

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### **RECOMMENDATION 28**

The Department of Behavioral Health and Developmental Services should (i) develop and implement a plan to improve its oversight of discharge determination procedures and decision-making at state psychiatric hospitals, which, at a minimum, should include a process to review a sample of discharge determinations from each state hospital on an ongoing basis to ensure appropriate discharge decisions are being made for patients admitted to these facilities and (ii) provide technical assistance and guidance to state hospital staff when shortcomings are identified with discharge determinations. (Chapter 7)

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### **RECOMMENDATION 29**

The General Assembly may wish to consider amending (i) §37.2-837 of the Code of Virginia to assign responsibility for leading discharge planning to state psychiatric hospital staff rather than community services boards (CSBs) for patients who are determined to likely need hospitalization for 30 days or less, but stipulate that CSB staff should remain engaged in discharge planning for these patients, and (ii) §37.2-505 of the Code of Virginia to limit CSBs' responsibility for discharge planning to patients who remain in state hospitals more than 30 days. (Chapter 7)

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### **RECOMMENDATION 30**

The Department of Behavioral Health and Developmental Services should specify in its performance contracts with community services boards (CSBs) that CSB discharge liaisons are expected to complete the intake process for patients on their caseload before they are discharged from state psychiatric hospitals. (Chapter 7)

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### **RECOMMENDATION 31**

The Department of Behavioral Health and Developmental Services should contract with a provider to establish a telepsychiatry program and, as part of that contract, stipulate that individuals discharged from state psychiatric hospitals should receive a telepsychiatry appointment through the program within one week of discharge, unless the individual's community services board or other community-based psychiatric provider can offer an in-person psychiatrist appointment within that week. (Chapter 7)

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### **RECOMMENDATION 32**

The General Assembly may wish to consider including language in the Appropriation Act directing the Department of Behavioral Health and Developmental Services (DBHDS) to develop a plan to (i) close the Commonwealth Center for Children and Adolescents (CCCA) and (ii) find or develop alternative effective, safe, and therapeutic placements for children and youth who would otherwise be admitted to CCCA, and direct DBHDS to submit its plan to the House Appropriations and Senate Finance and Appropriations committees. (Chapter 8)

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