SENT VIA EMAIL (alison.land@dbhds.virginia.gov)

August 16, 2021

Commissioner Alison Land
Commonwealth of Virginia
Department of Behavioral Health and Developmental Services
P.O. Box 1797
Richmond, Virginia 23218-1797

Re: Joint Action to Address System Capacity Challenges

Dear Commissioner Land:

This joint letter is submitted to you on behalf of the organizations listed below. As the Commonwealth's partners serving the needs of individuals with a behavioral health diagnosis and ensuring their safety, we understand the pressures created by staffing shortages and other capacity constraints at state hospitals and the risks associated with operating in this environment. We have experienced the same challenges with staffing shortages, burnout and fatigue, and other capacity constraints that are longstanding problems and which have been greatly exacerbated by the COVID-19 pandemic. Law enforcement agencies, hospitals, community services boards (CSBs) operate twenty-four hours a day, seven days a week to assist individuals with significant behavioral health challenges. We have all seen a growing number of persons in behavioral health crisis and the need to stretch our resources beyond limits that allow us to safely operate. This has the effect of driving away staff and causing a deterioration of other critical functions. Further, in the last few weeks following the halting of admissions to state hospitals, we have all recognized that these challenges are system-wide and are reminded that changes or shortages in one area have significant implications in another.

First and foremost, we can all acknowledge that the current environment is not serving our communities well. It is especially not meeting the needs of individuals experiencing a behavioral health crisis, and it poses a risk to their safety and the safety of those around them. It reflects that the system has reached a breaking point and requires us to collectively take immediate action to identify solutions that will allow us all to safely operate, while simultaneously providing individuals with significant behavioral health challenges access to services that they need in a timely and effective manner.

Some of the excerpts and quotes from media stories highlighted in your July 9, 2021, letter to partners and providers indicate the ongoing and system-wide nature of challenges that we are all facing. One editorial in the Free Lance-Star (July 5, 2021) notes that Virginia has a "bed of last resort" law, "*Yet we still have a situation in which a teen with serious psychiatric issues has to be kept under guard in an emergency room for nearly four days because there are no beds available in a mental facility.*"

Another editorial from the Daily Progress (July 9, 2021), also speaking of the example of the teen being kept in an emergency room for multiple days points out that despite "*a plan that calls for more intervention from community services to keep people out of mental hospitals . . . the number of people left stranded in emergency rooms and elsewhere in private hospitals grows*."

The realities of the current environment have real and deeply concerning consequences for individuals in a behavioral health crisis and their families. They also have significant and related implications for law enforcement, hospitals, and CSBs. CSBs face intense pressure to identify treatment alternatives in the community, which are historically underfunded. Depending upon the needs of the patient, CSBs may be left with no viable option other than to direct patients to the emergency department. Similarly, the difficulty in finding an available bed at private hospitals and state hospitals, especially in times of an overall strain on bed and staffing capacity arising from COVID-19, creates a tremendous strain on resources.

Law enforcement is regularly called upon to transport and maintain custody of individuals in a behavioral health crisis. Once a temporary detention order is obtained, and if a bed is found, law enforcement is required to transport the patient to an available bed at a private hospital or state hospital. Delays in obtaining medical clearance for psychiatric patients and difficulty in CSBs locating an available psychiatric bed can prolong and complicate these transports. This is especially true for patients exhibiting violent behaviors or a threat to self or others. More frequently, law enforcement is being required to wait with the patient in the emergency department beyond the duration of an emergency custody order and throughout the duration of the temporary detention order period due to the unavailability of a bed at a private hospital or state hospital. Thereafter, the patient may remain in the emergency department for an indefinite period of time, at which point it becomes unclear who has custody of the patient.

The above challenges for CSBs and law enforcement are related in part to capacity constraints at hospital emergency departments and in the availability of psychiatric beds. Hospitals have been overwhelmed with patients experiencing a behavioral health crisis – a situation made even more dire as they have been confronted with the demands of treating a surge of COVID-19 patients and assisting in pandemic response. As COVID-19 cases and hospitalizations begin to rise again, this renews concerns about greater capacity constraints at hospitals.

Not every hospital emergency department has equal capacity and capability to manage large numbers of behavioral health patients. There may be insufficient access to staff psychiatrists and at times of peak emergency department capacity demand, these constraints may be even more severe. Those hospitals with safe rooms in their emergency departments specially equipped to manage patients exhibiting violent behaviors or a threat to self or others have experienced overflows with this increased demand. Where safe rooms are not available, the patient may need to be monitored by staff on a one-to-one ratio, resulting in an additional strain on staff capacity. These capacity shortages pose a threat to the safety of patients and staff and can result in prolonged wait times to obtain medical clearance of psychiatric patients as necessary for admission to a psychiatric bed. For COVID-19 patients or for patients with medical complications, the availability of psychiatric beds is even more restricted.

Based on these observations, we conclude that when significant changes are made to one part of the system, such as a halt of admissions to state hospitals, it is necessary for the community to develop and implement a plan that takes into account the availability of adequate staff, access to community services, and other resource constraints. If not, the system as a whole will not properly function. The General Assembly recognized this as much when it enacted law found at Va. Code § 37.2-316. That law requires that "For the purpose of considering any restructuring of the system of mental health services involving an existing state hospital, the Commissioner shall establish a state and community consensus and planning team" to develop a plan that addresses, among other things, the types, amounts, and locations of new and expanded community services needed, including a projection for the need of inpatient psychiatric beds and related community mental health services and is required to include a plan for assuring the availability of adequate staff in affected communities, and for assuring the development, funding, and implementation of discharge plans by CSBs.

It is in the spirit of Va. Code § 37.2-316 that we are committed to working with you to develop a similar plan and immediate solutions for how to address our shared challenges in the current environment. The state and its partners cannot operate without shared accountability for our communities and the needs of individuals experiencing a behavioral health crisis, as well as for the safety and well-being of our state employees, law enforcement officers, health care providers, and other community services organizations that all play a role in supporting them.

As a preliminary matter, any plan should include greater communication and sharing of information about temporary admission halts. With the reduction of state hospital capacity due to temporary admission halts, community partners are unable to appropriately leverage their limited resources to address the significant increase in their communities. Accordingly, we respectfully request greater insight into the criteria used to halt and reopen admissions at various facilities, the number of state hospital beds that have been taken offline during admission halts at these facilities, and the processes that DBHDS has put in place to manage diversions to those facilities that are not subject to admission halts. Greater communication and partnership among behavioral health partners will increase the opportunity to lessen the negative impact on the individuals that we serve and the staff managing this crisis on a daily basis.

We also note that there is no lack of consensus over what is needed to restructure our behavioral health system. The restructuring of our behavioral health system is a long-term goal that we all share and has our full support. We cannot lose sight of the long-term plans for building out Virginia's behavioral health continuum, but at this time it is necessary to focus on the immediate crisis.

In the short term, what is needed is a plan for proactive solutions to address challenges in the current environment, which could include and are not limited to:

- A shared understanding of the roles and responsibilities of CSBs, law enforcement, private hospitals, and state hospitals to appropriately manage and transfer patients during periods where severe capacity constraints threaten to delay access to care for prolonged periods of time.
- Crisis stabilization services to provide an alternative to hospital emergency departments and admissions to state hospital or private hospital beds.

- Increases in capacity for private hospital beds and adequate funding for uninsured and underinsured patients.
- Expand the role of alternative transporters to assist law enforcement officers.
- Availability of step-down units and other services to accelerate discharges from state hospital and private hospital beds.
- Availability of drop-off and crisis centers.
- Adequate reimbursement for partial hospitalization and other outpatient services for treatment of individuals that may be headed into a state of crisis.
- Greater use of telemedicine for psychiatric evaluation of patients in the emergency department when possible.
- Deployment of complex care teams across the state focusing on behavioral health patients entering or coming out of crisis to connect them to community resources and address any underlying and unmet social needs or determinants of health.

These are all practical, evidence-based, and readily available options that have been studied and proposed in previous work by the General Assembly and DBHDS. While the recent special session provided some relief to the challenges facing the state's psychiatric hospitals, the broader problems facing individuals in crisis, community behavioral health resources, law enforcement, and private hospitals remain.

Proactive coordination among key stakeholders is needed to ensure that the current crisis does not continue to devolve. We would welcome a joint meeting with you to discuss the current challenges across the system and work collectively to develop a viable plan with solutions to address the immediate capacity challenges facing Virginia's law enforcement, hospitals, and CSBs and the systemic challenges in the behavioral health continuum.

The time to collaborate and take joint action is now. We look forward to your response to this request.

Respectfully submitted,

National Alliance on Mental Illness of Virginia
Virginia Association of Chiefs of Police
Virginia Association of Community Services Boards
Virginia College of Emergency Physicians
Virginia Hospital & Healthcare Association
Virginia Network of Private Providers
Virginia Sheriffs' Association