

**OFFICE OF THE STATE INSPECTOR GENERAL**

**Unannounced Inspections  
of  
Behavioral Health and Developmental  
Services Facilities**

**Calendar Year 2020**



**Michael C. Westfall, CPA  
State Inspector General  
Report No. 2021-BHDS-002**



**COMMONWEALTH OF VIRGINIA**  
**Office of the State Inspector General**

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December 18, 2020

The Honorable Ralph Northam  
Governor of Virginia  
P.O. Box 1475  
Richmond, VA 23219

Dear Governor Northam,

The Office of the State Inspector General (OSIG) performed unannounced inspections at all facilities operated by the Department of Behavioral Health and Developmental Services (DBHDS) pursuant to *Code of Virginia* § 2.2-309.1[B](1). The overall goal of unannounced inspections is to review the quality of services provided and make policy and operational recommendations to prevent problems, abuses and deficiencies, and to improve the effectiveness of programs and services.

OSIG is only able to conclude on the on-site inspection performed at Southeastern Virginia Training Center (SEVTC). Please see the Scope section of the report for the cause and the Inspection Results section for the impact of this limitation.

OSIG would like to thank DBHDS Commissioner Allison Land for helping to facilitate OSIG's safe access to the DBHDS facilities during the COVID-19 pandemic.

Respectfully,  
[Michael electronic signature here]

Michael C. Westfall, CPA  
State Inspector General

cc: The Honorable Clark Mercer, Chief of Staff to Governor Northam  
The Honorable Daniel Carey, M.D., Secretary of Health and Human Resources  
The Honorable Patrick A. Hope, Chair, Joint Commission on Health Care  
The Honorable George L. Barker, Vice Chair, Joint Commission on Health Care  
Allison Land, Commissioner, DBHDS  
Angela Harvell, Deputy Commissioner for Facility Services, DBHDS  
Dev Nair, Assistant Commissioner of Quality Management and Development, DBHDS  
Alvie Edwards, Assistant Commissioner for Compliance, Risk Management and Audit, DBHDS

# Behavioral Health Unannounced Inspections

## ***What OSIG Found***

- 1) Follow-up of prior year recommendations:
  - a. For most recommendations made by OSIG between fiscal year (FY) 2016 and FY 2019, inspectors determined that the actions taken and documentation provided demonstrate that corrective action is complete.
  - b. For the remaining recommendations made by OSIG in FY 2018 and FY 2019, inspectors determined that the actions and documentation provided do not demonstrate that corrective action is complete but is ongoing and OSIG will review them in future inspections.
- 2) OSIG performed physical inspections of 12 DBHDS facilities. The inspections focused on the facilities' ongoing process of adapting to and implementing safety protocols for the protection of staff and patients against the COVID-19 virus. OSIG inspectors noted that DBHDS Central Office provided guidance to the facilities.

After completion of the site visits, OSIG learned that some DBHDS personnel shared detailed information about the inspections with other facilities. As a result, OSIG is only able to draw conclusions about COVID-19 protocols at the first facility inspected.

DECEMBER 2020

## **HIGHLIGHTS**

### **Why OSIG Performed This Inspection**

OSIG completed this review in accordance with *Code of Virginia* § 2.2-309.1.B.1, which requires OSIG to, “Provide inspections of and make policy and operational recommendations for state facilities and for providers, including licensed mental health treatment units in state correctional facilities, in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and services.”

### **Why OSIG Only Concluded on One Facility**

As appendix A shows, as many as 11 of the 12 facilities had advance knowledge of the questions OSIG would be asking and procedures OSIG would use during facility visits. This action undermined the spirit and intent of unannounced inspections. It also caused the evidence gathered by OSIG during facility inspections to be insufficient for supporting a conclusion.

OSIG acknowledges DBHDS' frustration expressed in Appendix B, the DBHDS response to OSIG's draft report. However, OSIG simply cannot rely on the evidence gathered to draw conclusions about the implementation of actions to mitigate risks of COVID-19.



For more information, contact OSIG at 804-625-3255 or [www.osig.virginia.gov](http://www.osig.virginia.gov).

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## Scope

OSIG's calendar year (CY) 2020 unannounced inspections at the 12 DBHDS facilities\* between September 10 and October 1, 2020, focused on two areas: COVID-19 protocols and follow-up of prior findings from unannounced inspections. Due to the seriousness of COVID-19 and the risk to DBHDS patients and staff, OSIG focused on the design and implementation of safety protocols at the facilities. Additionally, OSIG included a follow-up of the status of findings reported for unannounced inspections occurring between FY 2016 and FY 2019.

Due to the pandemic, OSIG received guidance from the Office of the Attorney General on the timing of the unannounced inspections. OSIG completed the 2020 unannounced inspections on a calendar year cycle and not a fiscal year cycle. Therefore, OSIG refers to the current inspections as CY and the prior unannounced inspections as FY.

Actions of some DBHDS personnel restricted OSIG's scope with regard to COVID-19 protocols. Collusion among individual facility directors caused the COVID-19 data obtained by OSIG to be unreliable for all but one facility. Facility directors tampered with the process by sharing OSIG's inspection topics and specific questions asked on-site. These acts obstructed OSIG's efforts to gather and analyze data intended to help ensure the safety of patients and staff at the facilities.

The Inspection Results section of this report provides detail on the impact of this scope restriction and actions OSIG will take in future inspections as a result. Appendix A is documentation of the collusion.

\*Central Virginia Training Center closed on June 30, 2020, and therefore was not included in the unannounced inspections.

## Background

Every year, pursuant to *Code of Virginia (Code)* § 2.2-309.1 "Additional powers and duties; behavioral health and developmental services," OSIG conducts an unannounced inspection of each facility operated by DBHDS. In accordance with the *Code*, OSIG is to "provide inspections of and make policy and operations recommendations for state facilities and for providers, including licensed mental health treatment units in state correctional facilities, in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and services."

OSIG researches industry and regulatory standards to assist with evaluating DBHDS facilities and making recommendations to improve the quality of care and in order to prevent problems, abuses and deficiencies, and improve the effectiveness of DBHDS facilities' programs and services. This includes making recommendations to DBHDS Central Office to ensure proper and consistent management and oversight of the facilities.

DBHDS is established in the executive branch of government responsible to the Governor. DBHDS is under the supervision and management of the Commissioner, and the Commissioner carries out the management and supervisory responsibilities in accordance with policies and regulations of the State Board of Behavioral Health and Developmental Services (the Board) and applicable federal and state statutes and regulations. The Board has the statutory authority, as outlined in § 37.2-203, to develop and establish policies governing the operations of DBHDS, state facilities and Community Services Boards. Community Services Boards act as the doorway to the Virginia mental health system.

DBHDS operates 12 facilities across the Commonwealth of Virginia: eight behavioral health facilities for adults, one training center, a psychiatric facility for children and adolescents, a medical center and a center for behavioral rehabilitation. State facilities provide highly structured, intensive services for individuals with mental illness or developmental disabilities or who are in need of substance use disorder services.

In planning for the CY 2020 unannounced inspections, OSIG took into account the unprecedented times the state mental health facilities find themselves, forced to operate due to COVID-19. State mental health facilities are, just like standard medical facilities, tasked with caring for individuals 24 hours a day, seven days a week. This required a unique approach to the planning and a flexible approach to the execution of the unannounced inspections.

OSIG planned the CY 2020 unannounced inspections with a two-pronged approach. One portion of the inspection focused on the corrective actions implemented by DBHDS as they related to prior year recommendations (FY 2016 – FY 2019). The second portion of the unannounced inspections was an on-site inspection at each facility. With the challenges each facility faces in the COVID-19 climate, inspectors planned the inspections to observe how each facility dealt with these challenges.

### **Objectives**

Through inspection of documentation and on-site observations:

- Determine the status of prior findings and recommendations.
- Determine if facilities have designed and implemented actions to mitigate risks of COVID-19.

### **Methodology**

OSIG conducted this inspection in accordance with the Principles and Standards for Offices of Inspector General. Additionally, OSIG applied various methodologies during the inspection process to gather and analyze information pertinent to the project scope and to assist with developing and testing the project objectives. The methodologies included the following:

- Examining policies and procedures promulgated by Central Office to instruct DBHDS facility management on how to operate the facilities.
- Examining documentation provided by Central Office showing the corrective action taken by DBHDS for recommendations made from FY 2016 – FY 2019.
- Conducting single-day site visits at each of the 12 DBHDS facilities in September and October 2020.
- Performing walkthroughs of each of the 12 DBHDS facilities either in person or through closed circuit video, designed to assess the safety measures employed by the facility relating to COVID-19 and personal protective equipment (PPE) usage.
- Conducting interviews with officials at each of the 12 DBHDS facilities.
- Examining policies and procedures of all 12 DBHDS facilities.

### **Inspection Results**

OSIG requested documentation that shows the actions taken by DBHDS as they relate to previous OSIG recommendations made and the DBHDS response to those recommendations. OSIG inspectors reviewed the documents and determined whether the corrective actions are complete or are ongoing.

- 1) For the following recommendations made by OSIG between FY 2016 and FY 2019, inspectors determined that the actions taken and documentation provided demonstrate that corrective action is complete. Inspectors determined that no further follow-up is required for these recommendations.

For FY 2016, recommendations made by OSIG during the unannounced inspections centered on the updating and revision of Departmental Instruction (DI) 201. DI 201 outlines policies and procedures related to reporting and investigating abuse and neglect of individuals receiving services in DBDHS facilities. Recommendations made to improve DI 201 included:

- Reviewing and updating DI 201. At the time of the recommendation, DBHDS had not revised DI 201 since August 2009.
- Conducting abuse and neglect investigations consistently and eliminating variations in quality and outcome.
- Improving communication between facility's management and staff during and after an abuse or neglect investigation.
- Using data generated during a DI 201 investigation to improve performance of staff and prevent abuse in the future.

For FY 2017, the recommendations made by OSIG during the unannounced inspections centered on the updating and revision of DI 401. DI 401 outlines the policies and

procedures relating to risk and liability management. This includes the process for reporting incidents at the various facilities. Recommendations made to improve DI 401 included:

- Reviewing and updating DI 401. At the time of the recommendation, DBHDS had not revised DI 401 since August 2013.
- Improving the consistency of the risk management standards and processes across the DBHDS system.
- Updating the risk management document storage infrastructure and definitions.
- Improving significant event reviews by the individual DBHDS facilities to ensure they meet guidelines and best practices (as set forth by regulatory standards).
- Reviewing and revising the Facility Event Report Form (Form 158).

2) For the following recommendations made by OSIG between FY 2016 and FY 2019, inspectors determined that the actions and documentation provided do **not** demonstrate that corrective action is complete and OSIG will review them in future inspections.

OSIG issued a single report that covered FY 2018 and FY 2019. In addition, for fiscal years 2018 and 2019, OSIG made recommendations directly to the individual facilities rather than the DBHDS system as a whole. These recommendations included:

- Limiting overtime at DBHDS facilities. Of the six facilities included in the recommendation, four facilities have completed the corrective action to limit the amount of overtime an individual may work in a single workweek.
- Improving the staffing levels at DBHDS facilities. Seven DBHDS facilities had understaffed shifts between July 1, 2017, and March 31, 2019. Of the four recommendations made to DBHDS, one recommendation to ensure the facilities create a process to maintain shift log records in accordance with Records Retention and Disposition Specific Schedule No. 720-00,1 has been completed by all facilities included (four facilities). Three other recommendations at seven of the 12 facilities inspected are ongoing. They include:
  - Continuing efforts to implement across the board strategies that assist facilities with recruitment and retention of staff.
  - Creating workforce plans that include strategies to mitigate recruitment and retention challenges for direct care staff given each facility's unique talent pool and geographical factors.
  - Assisting facilities with the greatest needs to fill each shift properly because current efforts are not having significant impacts on the ability of facilities to do so.

OSIG performed physical inspections of 12 DBHDS facilities. The inspections focused on the facilities' ongoing process of adapting to and implementing safety protocols for the protection of staff and patients against the COVID-19 virus. OSIG inspectors took exaggerated measures to ensure the safety of patients and staff during the inspections by using approved PPE and viewing interior sections of each facility through closed circuit television where possible. OSIG inspectors noted that DBHDS Central Office has provided guidance to the facilities. OSIG concluded that SEVTC implemented proper safety protocols to protect the patient population and staff. SEVTC successfully adapted these protocols to the unique needs of the patient population and the overall layout at this facility.

Due to the collusive actions of some DBHDS personnel, OSIG is unable to determine the adequacy of COVID-19-related measures at the remaining 11 facilities and is unable to provide any recommendations for potentially needed improvements.

OSIG will implement changes to the unannounced inspection process in the future. Those changes may include any or all of the following:

- Using different objectives and procedures for each facility.
- Inspecting all facilities at the same time.
- Conducting multiple inspections at facilities over the course of each year.
- Obtaining management assertions regarding receiving or providing information about OSIG inspections.

## Appendix A

FROM OIG VISIT AT ESH TODAY. OIG is expected to visit PGH next week.

Hi team, same feedback from the other director's so far for our visit.

They (two auditors, lead auditor is Nancy Edmonds) showed up about 9:15, and they are walking out now (10:00). They were only asked about COVID, nothing else. These are the questions verbatim:

1. What is your policy/procedure for PPE for Staff and Employee?
2. What is your policy for staff that test positive?
3. What is your policy for patients that test positive?
3. Do you take new admits currently?
4. What is the process for managing COVID positive patients?
5. How do you handle restraints on COVID/quarantine units?
6. Do you have anti-ligature hardware throughout?
7. Are there hand sanitizer stations throughout the buildings?
8. How do you handle transferring COVID positive patients to hospitals?
9. Do you have signs or a way of reminding patients to use hand sanitizer often?
10. Did you provide masks to patients and are they required to wear them?
11. Do you allow visitors currently?
12. Do you have ID/DD patients and how do you handle that group relative to COVID?
13. Are genders mixed in common areas?
14. Do you have signs in patient areas to remind them of group size limitations due to COVID?

They will ask that you email Aaron Wheeler your copies of any of the above mentioned policies/procedures. One thing they do is watch a few minutes of video footage, looking for staff wearing masks.

Note: Highlighting added

## Appendix B

DBHDS Response:

Dear Mr. Westfall:

Prior to receiving this report on the 2020 unannounced inspections, DBHDS was pleased to hear from your staff on multiple occasions that this was a very positive and productive inspection cycle. We are proud of our staff for their incredible efforts to care for and protect our patients as well as themselves during this global pandemic. In particular, their efforts have been inspiring to fight COVID-19 while maintaining daily responsibilities, implementing a new electronic health record, managing critical census and staffing levels, and continuously seeking improvement to our operations. The progress on prior year corrective actions noted in this report, despite a significant impact on our staff and resources during this unforeseen pandemic, is one of many examples that demonstrate the spirit and drive of our workforce.

DBHDS Central Office and each of our facilities have taken extraordinary and unprecedented actions to mitigate risks associated with COVID-19. Early in the pandemic, DBHDS Central Office in collaboration with VDH and state facilities, developed policies and guidance for PPE usage, crisis standards of care, admissions to state facilities, as well as managing positive patients and staff. As the pandemic progressed, we continued to provide essential information regarding COVID-19 testing as a result of contact tracing and for ongoing surveillance. DBHDS Central Office implemented a restricted visitation policy for all state facilities and established procedures to monitor staff, patients, and essential visitors for signs and symptoms of COVID-19. The state facilities have maintained open communication and collaboration with their local health departments and implemented recommendations to address outbreaks, admission closures, and reopening plans. Reviews by the local health departments have included, but are not limited to, enhanced infection control procedures, cohorting of staff and patients, and ongoing surveillance testing. State facilities also implemented modified active treatment, program services, and meeting protocols to comply with required social distancing and to decrease exposures.

DBHDS Central Office and facility directors share real time COVID-19 data regarding positive cases, staffing, testing, outbreaks, resource needs, hospitalizations, and critical issues, as well as meet at least weekly to discuss COVID-19 status and resolve concerns to prevent or mitigate exposures. DBHDS Central Office has provided emergency management and procurement services to ensure facilities are well informed and have adequate supplies and resources such as, but not limited to, enhanced sanitation supplies, personal protective equipment, thermometers, test kits, and medications. The state facilities have continued to implement recruitment and retention measures to maintain our workforce by engaging staffing agencies, implementing hazard pay and

incentive plans, and offering counseling and support services, to name a few. In addition, the DBHDS Central Office and facility directors have collaborated with VHHA, CSBs, regional healthcare coalitions, and VDH throughout the pandemic response. DBHDS Central Office and state facilities also worked with HHR to develop and approve the Executive Order 70 to address the census crisis and COVID-19 impact on state facility operations in order to remain the safety net for individuals requiring inpatient psychiatric care. All of these actions were well underway prior to the unannounced facility visits and are easily verifiable.

Despite these efforts and many others shared with OSIG during the inspection site visits, we were taken aback that OSIG refuses to acknowledge the COVID-19 protocols and risk mitigation strategies within 11 of our facilities. Furthermore, we are gravely concerned with the false and misleading narrative used in this report that mischaracterizes the actions of a new DBHDS staff member. Lastly, it is disturbing to know that approximately two months have passed since the last onsite inspection and the issuance of the draft report, and no additional actions were taken by OSIG to further validate information received from our staff in order to provide some form of a conclusion for the purposes of this inspection cycle.

The characterization of this incident as "collusion" amongst the facility directors to "tamper" with the process is unequivocally false and needlessly incendiary. There is no evidence to suggest that any other facility director or the entire group requested a list of questions asked by OSIG, nor did they accept an offer to receive the questions. Collusion requires the cooperation or conspiracy of multiple individuals, and this email was simply sent, without direction or permission of others, to share what the individual learned from their inspection. Nonetheless, DBHDS leadership was disappointed to learn that a staff member shared the questions that were asked by OSIG during an onsite inspection. Upon receiving the concern from OSIG, DBHDS leadership took immediate action by addressing this specific incident with that employee, and providing instruction and expectations for future inspection cycles to the DBHDS facility director group. Furthermore, the OSIG inspectors expressed approval and agreement when DBHDS shared with them the actions that were taken to address this issue.

It is very important to note that OSIG's line of questions during the inspections predominantly involved policies and procedures that take an extensive amount of time to implement; as such, receipt of the specific questions in advance could not have improved other facilities' positions for the outcome of the inspection. While as demonstrated above we understand OSIG's apprehension after learning of the email, it would not be possible for DBHDS staff to create all of necessary documentation, acquire and install safety equipment, address anti-ligature issues, and significantly change the practices of our facility operations in order to appease OSIG within a matter of days. In fact, the most significant questions asked by OSIG refer to policy and practices that were developed and disseminated from DBHDS Central Office at the beginning of the pandemic.

Notably, OSIG made DBHDS aware of a portion of the inspection scope as well as other potential objectives, including COVID-19, prior to beginning the engagement. Furthermore, DBHDS facilities are well aware of COVID-19 being a high priority inspection objective for all third party regulators and oversight organizations. Several of the state facilities have been surveyed by VDH for CMS, TJC, and local health departments during the pandemic regarding their COVID-19 responses and have received favorable outcomes. As such, each of our facilities have maintained survey readiness for that topic since the beginning of the pandemic. Our response to COVID-19 and the risk mitigation efforts across our system are subject to scrutiny every day, so the assertion that none of the information provided or witnessed can be relied upon is inaccurate. There is no doubt that a more comprehensive conclusion can be offered by OSIG for each of the inspections, and a conclusion should be provided for all facilities.

Finally, the lack of communication and interest by OSIG to further validate information provided during the inspection cycle over the past two months is discouraging. The creation and distribution dates of documentation, policies and procedures, timing of acquisition for PPE and other equipment, and dates of numerous verbal and written communications across the agency could have been demonstrated over the past two months if we were provided the opportunity. Given the significant delay to receive the draft report and results of the inspection process, and the quickly approaching deadline of December 12 to provide a formal response, we are disappointed that more was not done by OSIG to seek comfort in our COVID-19 risk mitigation efforts. Furthermore, DBHDS disagrees with the mischaracterization and conclusion noted in this report.

In closing, I am incredibly thankful and proud of the DBHDS staff for their devotion and tenacity throughout this challenging time. Their response to COVID-19, increasing census pressures, and many other critical initiatives to continuously improve our operations and care for our patients is nothing short of inspiring. While the relationship with any oversight agency has natural tension, we have historically valued OSIG's work and used many of its recommendations to improve quality for our facility system. However, there was little value found in this report. For OSIG to discount the vast majority of the data collected during its inspections and ignore the tremendous body of work done within 1 I facilities during COVID-19 is extremely unfortunate, but I remain confident in our staff, in our response to COVID-19, and in the incredible contributions our staff continue to make every day.

Sincerely,

Alison G. Land, FACHE  
Commissioner