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HOUSE BILL NO. 1626

Offered January 10, 2001

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A BILL to amend and reenact §§ 37.1-198 and 37.1-248.1 of the Code of Virginia, relating to the performance contract for mental health, mental retardation and substance abuse services.

Patron—Tate

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.1-198 and 37.1-248.1 of the Code of Virginia are amended and reenacted as follows:

§ 37.1-198. Performance contract for mental health, mental retardation and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to operating boards, administrative policy boards or local government departments with policy-advisory boards to accomplish the purposes set forth in this chapter. Six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year, and solicit public comments for a period of sixty days.

B. Any operating community services board, administrative policy board, or local government department with a policy-advisory board may apply for the assistance provided in this chapter by submitting annually to the Department its proposed performance contract for the next fiscal year together with the (i) ~~recommendations~~ *approval by formal vote* of the operating community services board or administrative policy board's board of directors or the ~~recommendations of the~~ local government department's policy-advisory board and (ii) the approval by formal vote of the governing body of each political subdivision that established it. The operating board, administrative policy board or local government department with a policy-advisory board shall make its proposed performance contract available for public review and solicit public comments for a period of thirty days prior to submitting it for the ~~recommendations~~ *action of* by the operating board or administrative policy board's board of directors or the local government department's policy-advisory board. To avoid disruptions in service continuity, the Department may provide up to five semi-monthly payments of state-controlled funds to allow sufficient time to complete public review, public comment, negotiation and approval of the performance contract. *The operating board, administrative policy board or local government department with a policy-advisory board shall submit its performance contract to the local governing body of each political subdivision that established it in accordance with the schedule determined by the governing body or at least fifteen days before the meeting at which the governing body is scheduled to consider approval of the performance contract.* If the governing body of each political subdivision does not approve the proposed performance contract by September 15 of each year, the performance contract shall be deemed approved.

C. The performance contract shall (i) delineate the responsibilities of the Department and the operating board, administrative policy board or the local government department and its policy-advisory board; (ii) specify conditions that must be met for the receipt of state-controlled funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) beginning on July 1, 2000, contain specific consumer outcome, provider performance, consumer satisfaction, and consumer and family member participation and involvement measures, and state facility bed utilization targets that have been negotiated with the operating board, administrative policy board or local government department with a policy-advisory board; (v) establish an enforcement mechanism, including notice and an appeal process, should an operating board, administrative policy board or local government department with a policy-advisory board fail to comply with any provisions of the contract, including provisions for remediation, the withholding of funds, methods of repayment of funds, and for the Department to exercise the provision of subsection E; and (vi) include reporting requirements and revenue, cost, service, and consumer information displayed in a consistent, comparable format determined by the Department.

The Department may provide for performance monitoring by an administrative services organization under contract with the Department in order to determine whether the operating boards, administrative policy boards or local government departments with policy-advisory boards are performing in accordance with the requirements of their respective performance contract.

D. No operating community services board, administrative policy community services board or local government department with a policy-advisory board shall be eligible to receive state-controlled funds

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59 for mental health, mental retardation or substance abuse services after September 15 of each year unless
60 (i) its performance contract has been approved by the governing body of each political subdivision that
61 established it and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual
62 consumer data and information, notwithstanding the provisions of § 37.1-84.1 or any regulations
63 promulgated thereunder, to the Department in the format prescribed by the Department; and (iii)
64 beginning on July 1, 2000, it uses standardized cost accounting and financial management systems
65 approved by the Department.

66 E. If, after unsuccessful use of the remediation process described in the performance contract, an
67 operating board or administrative policy board or local government department with a policy-advisory
68 board remains in substantial noncompliance with its performance contract with the Department, the
69 Department may, after affording the operating board or administrative policy board or local government
70 department with a policy-advisory board an adequate opportunity to use the appeal process described in
71 the performance contract, terminate all or a portion of the contract. Using the state-controlled resources
72 associated with that contract, the Department, after consulting with the governing body of each political
73 subdivision that established the operating board, administrative policy board or local government
74 department with a policy-advisory board, may negotiate a performance contract with another operating
75 board, administrative policy board, or local government department with a policy-advisory board or a
76 private nonprofit or for-profit organization or organizations to obtain services that were the subject of
77 the terminated performance contract.

78 § 37.1-248.1. Performance contract for mental health, mental retardation and substance abuse
79 services.

80 A. The Department shall develop and initiate negotiation of the performance contracts through which
81 it provides funds to behavioral health authorities to accomplish the purposes set forth in this chapter. Six
82 months prior to the beginning of each fiscal year, the Department shall make available to the public the
83 standard performance contract form that it intends to use as the performance contract for that fiscal year,
84 and solicit public comments for a period of sixty days.

85 B. Any behavioral health authority may apply for the assistance provided in this chapter by
86 submitting annually to the Department its proposed performance contract for the next fiscal year together
87 with the ~~recommendations~~ *approval by formal vote* of the behavioral health authority's board of directors
88 and the approval by formal vote of the governing body of the political subdivision that established it.
89 The behavioral health authority shall make its proposed performance contract available for public review
90 and solicit public comments for a period of thirty days prior to submitting it for the ~~recommendations~~
91 *approval* of the behavioral health authority's board of directors. To avoid disruptions in service
92 continuity, the Department may provide up to five semi-monthly payments of state-controlled funds to
93 allow sufficient time to complete public review, public comment, negotiation and approval of the
94 performance contract. *The behavioral health authority shall submit its performance contract to the*
95 *governing body of the political subdivision that established it in accordance with the schedule*
96 *determined by the governing body or at least fifteen days before the meeting at the which the governing*
97 *body is scheduled to consider approval of that contract.* If the governing body of each political
98 subdivision does not approve the proposed performance contract by September 15 of each year, the
99 performance contract shall be deemed approved.

100 C. The performance contract shall (i) delineate the responsibilities of the Department and the
101 behavioral health authority; (ii) specify conditions that must be met for the receipt of state-controlled
102 funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) beginning on
103 July 1, 2000, contain specific consumer, provider performance, consumer satisfaction and consumer and
104 family member participation and involvement measures, and state facility bed utilization targets that
105 have been negotiated with the behavioral health authority; (v) establish an enforcement mechanism,
106 including notice and an appeal process, should the behavioral health authority fail to comply with any
107 provisions of the contract, including provisions for remediation, the withholding of funds, methods of
108 repayment of funds, and for the Department to exercise the provisions of subsection E hereof; and (vi)
109 include reporting requirements and revenue, cost, service, and consumer information displayed in a
110 consistent, comparable format determined by the Department.

111 D. No behavioral health authority shall be eligible to receive state-controlled funds for mental health,
112 mental retardation or substance abuse services after September 15 of each year unless (i) its performance
113 contract has been approved by the governing body of the political subdivision that established it and by
114 the Department; (ii) it provides service, cost, revenue, and aggregate and individual consumer data and
115 information, notwithstanding § 37.1-84.1 or any regulations promulgated thereunder, to the Department
116 in the format prescribed by the Department; and (iii) beginning on July 1, 2000, it uses standardized
117 cost accounting and financial management systems approved by the Department.

118 E. If, after unsuccessful use of the remediation process described in the performance contract, a
119 behavioral health authority remains in substantial noncompliance with its performance contract with the
120 Department, the Department may, after affording the authority an adequate opportunity to use the appeal

121 process described in the performance contract, terminate all or a portion of the contract. Using the
122 state-controlled resources associated with that contract, the Department, after consulting with the
123 governing body of the political subdivision that established the behavioral health authority, may
124 negotiate a performance contract with an operating board, an administrative policy board or a local
125 government department with a policy-advisory board or a private nonprofit or for-profit organization or
126 organizations to obtain services that were the subject of the terminated performance contract.