

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.1-816 and 2.1-817 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.1-816.1, relating to the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

[H 1653]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-816 and 2.1-817 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.1-816.1 as follows:

§ 2.1-816. Powers and duties of Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall have the following powers and duties:

1. To operate and manage the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services and to employ such personnel as may be required to carry out the provisions of this chapter.

2. To make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of this chapter, and to apply for and accept grants from the United States government and agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter.

3. To prepare reports for the Governor concerning inspections and reviews of facilities; provide inspections of and make policy and operational recommendations for facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers as defined in § 37.1-179 in order to prevent problems, abuses and deficiencies in and improve the effectiveness of their programs and services.

4. To prepare an annual report by December 1 concerning activities, inspections, reviews, and recommendations for the General Assembly; keep the Governor and General Assembly fully and currently informed, by means of reports required by § 2.1-816.1, concerning significant problems, abuses and deficiencies relating to the administration of the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers as defined in § 37.1-179, to recommend corrective actions concerning such problems, abuses and deficiencies, and to report on the progress made in implementing such corrective actions.

5. To notify in a timely manner the attorneys for the Commonwealth for the jurisdiction in which a state facility is located and law enforcement, as appropriate, whenever the Inspector General has reasonable grounds to believe there has been a violation of state criminal law.

§ 2.1-816.1. Reports.

A. The Inspector General shall prepare, not later than May 31 and November 30 of each year, semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to:

1. A description of significant problems, abuses and deficiencies related to the administration of the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers as defined in § 37.1-179 during the reporting period;

2. A description of the recommendations for corrective actions made by the Office during the reporting period with respect to significant problems, abuses or deficiencies identified;

3. An identification of each significant recommendation described in previous reports under this section on which corrective action has not been completed;

4. A summary of matters referred to the attorneys for the Commonwealth and law enforcement and actions taken on them during the reporting period;

5. Information concerning the numbers of complaints received and types of investigations completed by the Office during the reporting period.

B. Within thirty days of the transmission of each semiannual report, the Inspector General shall make copies of such report available to the public upon request and at a reasonable cost.

C. The Inspector General shall report immediately to the Governor and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services whenever the Office becomes aware of particularly serious problems, abuses or deficiencies relating to the administration of

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the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers as defined in § 37.1-179.

D. The Inspector General may conduct such additional investigations and make such reports relating to the administration of the programs and services of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and providers as defined in § 37.1-179 as are, in the judgment of the Inspector General, necessary or desirable.

E. Notwithstanding any other provision of law, the reports, information or documents required by or under this section shall be transmitted directly to the Governor.

F. Records that are confidential under federal or state law shall be maintained as confidential by the Inspector General, and shall not be further disclosed, except as permitted by law.

G. Prior to releasing any reports or records to the public or members of the General Assembly pursuant to the provisions of this section, the Inspector General shall provide such information to the Virginia Attorney General and receive assurances from the Attorney General that the release of such information will not violate confidentiality requirements under federal or state law.

§ 2.1-817. Powers and duties of the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

The Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services shall have the following powers and duties:

1. To provide oversight and conduct announced and unannounced inspections of the facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services on an ongoing basis, in response to specific complaints of abuse, neglect or inadequate care, and as a result of monitoring of serious-incident reports and reports of abuse, neglect or inadequate care or other information received, and to make recommendations to the Governor, the General Assembly, the Secretary of Health and Human Resources and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services on methods to improve the quality of care in such facilities. The Office shall conduct unannounced inspections at each state facility at least once annually.

2. To access any and all information related to the delivery of services, including confidential patient or resident information, to patients or residents in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. Such patient or resident information shall be maintained by the Office of the Inspector General as confidential in the same manner as is required by the state agency from which the information was obtained.

3. To monitor review, comment and make recommendations, as appropriate, about any reports prepared by the Department of Mental Health, Mental Retardation and Substance Abuse Services and the critical-incident data collected by the Department of Mental Health, Mental Retardation and Substance Abuse Services in accordance with regulations promulgated under § 37.1-84.1 to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

4. To monitor and participate in the promulgation of regulations by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

5. To receive reports, information and complaints from the Department for Rights of Virginians with Disabilities concerning issues related to quality of care in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and to conduct independent reviews and investigations.