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SENATE BILL NO. 1311

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 37.1-194 and 37.1-248 of the Code of Virginia, relating to community services boards and behavioral health authorities.

Patrons—Newman and Hawkins; Delegate: Byron

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.1-194 and 37.1-248 of the Code of Virginia are amended and reenacted as follows:

§ 37.1-194. Purpose; services to be provided.

The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, mental retardation and substance abuse services in the Commonwealth, may provide funds to assist any city or county, or any combination of political subdivisions, in the provision of such services. Every county or city or combination of cities or counties or counties and cities shall establish a community services board. Every county or city or combination of cities or counties or cities and counties that has established a community services board shall, in consultation with its community services board, designate its board as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body or bodies of the political subdivision or subdivisions that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one political subdivision, the decision to change this designation shall be unanimous.

The core of services to be provided by operating community services boards, administrative policy community services boards or local government departments with policy-advisory community services boards within the political subdivisions that they serve shall include emergency services, and case management services subject to such funds as may be appropriated therefor, and may include a comprehensive system of inpatient outpatient, day-support residential, prevention, early intervention, and other appropriate mental health, mental retardation and substance abuse services necessary to provide individualized services and supports to persons with mental illnesses, mental retardation, or alcohol or other drug abuse problems or dependence. *A consumer's refusal of case management services shall not affect his receipt of other services.*

§ 37.1-248. Behavioral health authorities; powers and duties.

Every authority shall be deemed to be a public instrumentality, exercising public and essential governmental functions to provide for the public mental health, welfare, convenience and prosperity of the residents and such other persons who might be served by the authority and to provide behavioral health services to such residents and persons. *A consumer's refusal of case management services shall not affect his receipt of other services.*

An authority shall have the following powers and duties:

1. Review and evaluate all existing and proposed public community mental health, mental retardation, and substance abuse services and facilities available to serve the community and such private services and facilities as receive funds through the authority and advise the governing body of the political subdivision that established it as to its findings.

2. Pursuant to § 37.1-248.1 and in order to obtain state, local, federal, Medicaid, and other revenues appropriated or reimbursed for the provision of mental health, mental retardation and substance abuse services, submit to the governing body of the political subdivision that established it an annual performance contract for community mental health, mental retardation, and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated therefor, provide such services as may be authorized under such performance contract for consumers in need.

4. In accordance with its approved performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.

4a. Make and enter into all other contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of powers granted by this chapter, including contracts with any federal agency, the Commonwealth, or with any unit thereof, behavioral health providers, insurers, and managed care/health care networks on such terms and conditions as the authority may approve.

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59 5. Make rules, policies, or regulations concerning the rendition or operation of services and facilities
60 under its direction or supervision, subject to applicable standards, policies, or regulations promulgated by
61 the State Mental Health, Mental Retardation and Substance Abuse Services Board.

62 6. Appoint a chief executive officer of the behavioral health authority, according to minimum
63 qualifications established by the Department, and prescribe his duties. The compensation of such chief
64 executive officer shall be fixed by the authority within the amounts made available by appropriation
65 therefor. The chief executive officer shall serve at the pleasure of the authority's board of directors and
66 be employed under an annually renewable contract that contains performance objectives and evaluation
67 criteria. The Department shall approve (i) the selection of the chief executive officer for adherence to
68 minimum qualifications established by the Department and (ii) the salary ranges of the chief executive
69 officer and senior management staff.

70 7. Empower the chief executive officer to maintain a complement of professional staff to operate the
71 behavioral health authority's service delivery system.

72 8. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
73 jurisdiction or supervision of the authority and establish procedures for the collection of the same. All
74 fees collected shall be included in the performance contract submitted to the local governing body
75 pursuant to subdivision 2 hereof and § 37.1-248.1 and shall be used only for community mental health,
76 mental retardation and substance abuse purposes. Every authority shall institute a reimbursement system
77 to maximize the collection of fees from persons receiving services under the jurisdiction or supervision
78 of the authority consistent with the provisions of § 37.1-202.1 and from responsible third-party payers.
79 Authorities shall not attempt to bill or collect fees for time spent participating in involuntary
80 commitment hearings pursuant to § 37.1-67.3.

81 9. Accept or refuse gifts, donations, bequests, or grants of money or property, or other assistance
82 from the federal government, the Commonwealth, any municipality thereof, or from any other sources,
83 public or private; utilize the same to carry out any of its purposes; and enter into any agreement or
84 contract regarding or relating to the acceptance or use or repayment of any such grant or assistance.

85 10. Seek and accept funds through federal grants. In accepting such grants, the authority shall not
86 bind the governing body of the political subdivision that established it to any expenditures or conditions
87 of acceptance without the prior approval of such governing body.

88 11. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in
89 accordance with applicable regulations.

90 12. Apply for and accept loans in accordance with regulations established by the board of directors.

91 13. Develop joint annual written agreements, consistent with policies and procedures established by
92 the State Board, with local school divisions; health departments; boards of social services; housing
93 agencies, where they exist; courts; sheriffs; area agencies on aging; and regional Department of
94 Rehabilitative Services offices. The agreements shall specify what services will be provided to
95 consumers. All participating agencies shall develop and implement the agreements and shall review the
96 agreements annually.

97 14. Develop and submit to the Department the necessary information for the preparation of the
98 Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to
99 § 37.1-48.1.

100 15. Take all necessary and appropriate actions to maximize the involvement and participation of
101 consumers and family members of consumers in policy formulation and service planning, delivery, and
102 evaluation.

103 16. Institute, singly or in combination with other operating boards, administrative policy boards, local
104 governments with policy-advisory boards, or behavioral health authorities, a dispute resolution
105 mechanism that is approved by the Department and enables consumers and family members of
106 consumers to resolve concerns, issues, or disagreements about services without adversely affecting their
107 access to or receipt of appropriate types and amounts of current or future services from the authority.

108 17. Notwithstanding the provisions of § 37.1-84.1 and regulations promulgated thereunder, release
109 data and information about individual consumers to the Department, so long as the Department
110 implements procedures to protect the confidentiality of such information.

111 18. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia
112 pertaining to community services boards including, but not limited to: § 37.1-65.1 (judicial certification
113 of eligibility for admission of mentally retarded persons); §§ 37.1-67.1 through 37.1-67.6 (involuntary
114 detention); § 37.1-84.1 (human rights); § 37.1-98.2 (exchange of information); § 37.1-183.1 (licensure);
115 § 37.1-197.1 (prescription team); § 37.1-197.2 (background checks); § 37.1-199 (allocation of funds by
116 the Department of Mental Health, Mental Retardation and Substance Abuse Services); and § 37.1-202.1
117 (consumer liability for expenses of services).

118 19. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures
119 or other entities in carrying out any activities authorized by this chapter.

120 20. Transact its business, locate its offices and control, directly or through stock or nonstock

corporations or other entities, facilities that will assist the authority in carrying out the purposes and intent of this chapter, including without limitations the power to own or operate, directly or indirectly, behavioral health facilities in its service area.

21. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions, and in such manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein, whenever it shall become expedient to do so.

22. Participate in joint ventures with individuals, corporations, partnerships, associations or other entities for providing behavioral health care or related services or other activities that the authority may undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent of this chapter.

23. Conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the authority or for the exercise of any of its powers.

24. As a public instrumentality, operationalize its administrative management infrastructure in whole or in part independent of the local governing body; however, nothing in the chapter precludes behavioral health authorities from acquiring support services through existing government entities.

25. Operationalize capital improvements and bonding through existing economic or industrial development authorities.

26. Establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as cities, counties and towns are permitted under § 51.1-801.

27. Make an annual report to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services of the authority's activities.

28. Ensure a continuation of all consumer services during any transition period.