

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 557

An Act to amend and reenact § 37.1-98 of the Code of Virginia, relating to discharge of patients and residents from state facilities.

[H 1228]

Approved April 5, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 37.1-98 of the Code of Virginia is amended and reenacted as follows:

§ 37.1-98. Discharge, conditional release, and convalescent status of patients and residents.

A. The director of a state hospital *or training center* may discharge any *state hospital patient or training center resident* after the preparation of a predischARGE plan formulated in accordance with the provisions of § 37.1-197.1 by the community services board ~~which~~ *that* serves the political subdivision where the patient *or resident* resided prior to hospitalization or ~~with~~ *by* the board ~~located within that~~ *serves the political subdivision where the patient or, in the case of a training center, the resident or his legally authorized representative on his behalf,* chooses to reside ~~in~~ immediately following the discharge, except ~~one~~ *for a state hospital patient* held upon an order of a court or judge for a criminal proceeding, as follows:

1. Any *state hospital* patient who, in his judgment, is recovered.
2. Any *state hospital* patient who, in his opinion, is not mentally ill.
3. Any *state hospital* patient who is impaired or not recovered and whose discharge, in the judgment of the director, will not be detrimental to the public welfare; or injurious to the patient.
4. Any *state hospital* patient who is not a proper case for treatment within the purview of this chapter.

5. Any *training center resident* who chooses to be discharged, or, if the resident lacks the mental capacity to choose, his legally authorized representative may choose for him to be discharged. Pursuant to regulations of the Centers for Medicare & Medicaid Services and the Department of Medical Assistance Services, no resident of a training center who is enrolled in Medicaid shall be discharged if the resident, or his legally authorized representative on his behalf, chooses to continue receiving services in a training center.

For all individuals discharged ~~on or after January 1, 1987,~~ the predischARGE plan shall be contained in a uniform discharge document developed by the Department and used by all state hospitals, *training centers, and community services boards*. If the individual will be housed in an assisted living facility, as defined in § 63.1-172, the *predischARGE* plan shall ~~so state~~ *identify the facility, document its appropriateness for housing and capacity to care for the patient or resident, contain evidence of the facility's agreement to admit and care for the patient or resident, and describe how the community services board will monitor the patient's or resident's care in the facility.*

B. The director may grant convalescent status to a patient in accordance with rules prescribed by the Board. The state hospital granting a convalescent status to a patient shall not be liable for his expenses during such period. Such liability shall devolve upon the relative, committee, person to whose care the patient is entrusted while on convalescent status, or the appropriate local ~~public welfare agency~~ *department of social services* of the county or city of which the patient was a resident at the time of admission. The provision of social services to the patient shall be the responsibility of the appropriate local ~~public welfare agency~~ *department of social services* as determined by policy approved by the State Board of Social Services.

C. Any patient who is discharged pursuant to subdivision A 4 hereof shall, if necessary for his welfare, be received and cared for by the appropriate local ~~public welfare agency~~ *department of social services*. The provision of social services to the patient shall be the responsibility of the appropriate local ~~public welfare agency~~ *department of social services* as determined by policy approved by the State Board of Social Services. Expenses incurred by the provision of public assistance to the patient, who is receiving twenty-four-hour care while in an assisted living facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1, shall be the responsibility of the appropriate local ~~public welfare agency~~ *department of social services* of the county or city of which the patient was a resident at the time of admission.