

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 803

An Act to amend and reenact § 37.1-258 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 37.1 a section numbered 37.1-48.2, relating to restructuring of the mental health care system.

[H 995]

Approved April 8, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 37.1-258 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 37.1 a section numbered 37.1-48.2 as follows:

§ 37.1-48.2. System restructuring; state and community consensus and planning team required.

A. For the purpose of considering any restructuring of the system of mental health services involving an existing state mental health facility, the Commissioner shall establish a state and community consensus and planning team consisting of Department staff and representatives of the jurisdictions served by the facility, including local government officials, consumers, family members of consumers, advocates, state facility employees, community services boards, public and private service providers, licensed hospitals, state-operated medical hospitals, local health department staff, local social services department staff, sheriffs' office staff, area agencies on aging, and other interested citizens. In addition, the members of the House of Delegates and the Senate representing the jurisdictions served by the affected state facility may serve on the state and community consensus and planning team for that facility. Each state and community consensus and planning team, in collaboration with the Commissioner, shall develop a plan that addresses (i) the types, amounts, and locations of new and expanded community services that would be needed to successfully implement the closure or conversion of the facility to any use other than the provision of mental health services, including a six-year projection of the need for inpatient psychiatric beds and related community mental health services; (ii) the development of a detailed implementation plan designed to build community mental health infrastructure for current and future capacity needs; (iii) the creation of new and enhanced community services prior to the closure of the facility or its conversion to any use other than the provision of mental health services; (iv) the transition of state facility patients to community services in the locality of their residence prior to institutionalization or the locality of their choice; (v) the resolution of issues relating to the restructuring implementation process, including employment issues involving state facility employee transition planning and appropriate transitional benefits; and (vi) a six-year projection comparing the cost of the current structure and the proposed structure.

B. The Commissioner shall ensure that each plan includes the following components:

- 1. A plan for community education;*
- 2. A plan for the implementation of required community services, including state-of-the-art practice models and any models required to meet the unique characteristics of the area to be served, which may include models for rural areas;*
- 3. A plan for assuring the availability of adequate staff in the affected communities, including specific strategies for transferring qualified state facility employees to community services;*
- 4. A plan for assuring the development, funding, and implementation of individualized discharge plans pursuant to § 37.1-197.1 for individuals discharged as a result of the closure or conversion of the facility to any use other than the provision of mental health services; and*
- 5. A provision for suspending implementation of the plan if the total general funds appropriated to the Department for state facility and community services decrease in any year of plan implementation by more than ten percent from the year in which the plan was approved by the General Assembly.*

C. At least nine months prior to any proposed facility closure or conversion of the facility to any use other than the provision of mental health services, the state and community consensus and planning team shall submit a plan to the Joint Commission on Health Care and the Governor for review and recommendation.

D. The Joint Commission on Health Care shall make a recommendation to the General Assembly on the plan no later than six months prior to the date of the proposed closure or conversion of the facility to any use other than the provision of mental health services.

E. Upon approval of the plan by the General Assembly and the Governor, the Commissioner shall ensure that the plan components required by subsection B are in place, and may thereafter perform all tasks necessary to implement the closure or conversion of the facility to any use other than the provision of mental health services.

F. Any funds saved by the closure or conversion of the facility to any use other than the provision of

mental health services and not allocated to individualized services plans for patients being transferred or discharged as a result of the closure or conversion of the facility to any use other than the provision of mental health services shall be invested in the Mental Health, Mental Retardation and Substance Abuse Services Trust Fund established in Chapter 17 (§ 37.1-258 et seq.) of this title.

G. Nothing in this section shall prevent the Commissioner from leasing unused, vacant space to any public or private organization or transferring such space pursuant to subsection H.

H. Concurrently with the development of a plan described in subsection A, the Commissioner, in consultation with the Chancellor of the Community College System or his designee, the President of Thomas Nelson Community College or his designee, and the President of the College of William and Mary or his designee, and with the advice of the state and community consensus and planning team, shall assess the impact and feasibility of using a portion of real property now occupied by Eastern State Hospital located in James City County for the placement of a new campus of Thomas Nelson Community College and the development of a Center for Excellence in Aging and Geriatric Health on the property. This assessment shall examine the potential future use of the property by Thomas Nelson Community College and the Center for Excellence in Aging and Geriatric Health and its long-term impact on services provided by Eastern State Hospital and community services boards located in Eastern State Hospital's catchment area. The Commissioner, after completion of the impact and feasibility assessment and of a plan described in subsection A and with the consent of the Governor, is authorized to transfer to Thomas Nelson Community College for its possession and use a portion of that real property currently occupied by the Eastern State Hospital and known generally as the Hancock Geriatric Treatment Center. Any such transfer shall only be made subject to the provision that Thomas Nelson Community College use the property for its general education mission that includes the placement and operation of a School of Allied Health Professions to offer health care degrees, including Licensed Practical Nurse programs and for the training of mental health care providers. Should the Commissioner decide to make such transfer of the property to Thomas Nelson Community College, the Department of General Services shall obtain an independent assessment of the property's value, which shall include appropriate consideration of the value of mental health training services to be provided by Thomas Nelson Community College, and funds equal to the assessed value of the property shall be deposited in the Mental Health, Mental Retardation and Substance Abuse Services Trust Fund subject to the appropriation act.

§ 37.1-258. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Assets" means the buildings and land of state facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Commissioner" means the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Fund" means the Mental Health, Mental Retardation and Substance Abuse Services Trust Fund.

"Net proceeds" means the gross amount received by the seller on account of the sale of any assets (i) less costs incurred on behalf of the seller in connection with such sale and (ii) if after the sale the sold assets will be used by an entity other than a state agency or instrumentality or a local governmental entity in a governmental activity and debt obligations financed any portion of the sold assets and any amount of such obligations is outstanding at the time of the sale, less the amount necessary to provide for the payment or redemption of the portion of such outstanding obligations that financed the sold assets (which amount shall be used to pay or redeem such obligations or shall be transferred to the third party issuer of the obligations for a use permitted in accordance with such obligations).

2. That the Secretary of Health and Human Resources shall facilitate coordination among the Virginia Department of Housing and Community Development, the Virginia Housing Development Authority, and the federal Department of Housing and Urban Development in order to ensure that adequate housing options are available for individuals transitioning to community services.

3. That the Secretary of Health and Human Resources shall coordinate the efforts of the Department of Medical Assistance Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services in seeking the maximum Medicaid service options and potential Medicaid waivers from the federal Centers for Medicare & Medicaid Services.

4. That the Secretaries of Commerce and Trade, Administration, Education, Transportation, and Public Safety shall assist the Secretary of Health and Human Resources in developing strategies to provide transition services and appropriate transitional benefits to any affected state facility employees, and to assist any affected local communities with economic development opportunities and transportation needs.

5. That, for purposes of this act, whenever any reference is made to the Joint Commission on Health Care, such reference shall be deemed to include any successor in interest of the Joint Commission on Health Care.