

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 73

*An Act to amend and reenact §§ 51.5-3, 51.5-4, and 51.5-5 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 51.5-14.01, and to repeal §§ 51.5-5.1, 51.5-6, and 51.5-9.01 of the Code of Virginia, relating to the consolidation of the Board of Rehabilitative Services and the State Rehabilitation Council.*

[H 1969]

Approved March 16, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 51.5-3, 51.5-4, and 51.5-5 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 51.5-14.01 as follows:**

Chapter 2.

Definitions; ~~Board of Rehabilitative Services~~ *State Rehabilitation Council.*

§ 51.5-3. Definitions.

As used in this title except where the context requires a different meaning or where it is otherwise provided, the following words shall have the meaning ascribed to them:

"~~Board~~" means the ~~Board of Rehabilitative Services~~.

"Case management" is a dynamic collaborative process ~~which~~ *that* utilizes and builds on the strengths and resources of consumers to assist them in identifying their needs, accessing and coordinating services, and achieving their goals. The major collaborative components of case management services include advocacy, assessment, planning, facilitation, coordination, and monitoring.

"Case management system" is a central point of contact linking a wide variety of evolving services and supports that are (i) available in a timely, coordinated manner, (ii) physically and programmatically accessible, and (iii) consumer-directed with procedural safeguards to ensure responsiveness and accountability.

"Client" means any person receiving a service provided by the personnel or facilities of a public or private agency, whether referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner of Rehabilitative Services.

"Consumer" is, with respect to case management services, a person with a disability or his designee, guardian, conservator or committee.

"*Council*" means the *State Rehabilitation Council*.

"Mental impairment" means (i) a disability attributable to mental retardation, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual. For the purposes of § 51.5-41, the term "mental impairment" does not include active alcoholism or current drug addiction and does not include any mental impairment, disease or defect that has been successfully asserted by an individual as a defense to any criminal charge.

"Otherwise qualified person with a disability" means a person with a disability who:

1. For the purposes of § 51.5-41, is qualified to perform the duties of a particular job or position; or
2. For the purposes of § 51.5-42, meets all the requirements for admission to an educational institution or meets all the requirements for participation in its extracurricular programs.

"Person with a disability" means any person who has a physical or mental impairment ~~which~~ *that* substantially limits one or more of his major life activities or has a record of such impairment and ~~which~~ *that*:

1. For purposes of § 51.5-41, is unrelated to the individual's ability to perform the duties of a particular job or position, or is unrelated to the individual's qualifications for employment or promotion;
2. For purposes of § 51.5-42, is unrelated to the individual's ability to utilize and benefit from educational opportunities, programs, and facilities at an educational institution;
3. For purposes of § 51.5-44, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation or public service;
4. For purposes of § 51.5-45, is unrelated to the individual's ability to acquire, rent, or maintain property.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement ~~which~~ *that* is caused by bodily injury, birth defect, or illness.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation,

independent living, and recreation.

§ 51.5-4. Creation of Council; purpose; membership.

A. There shall be a Board of Rehabilitative Services which shall be composed of nine members, including a representative of local government, appointed by the Governor, subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in session, then at its next session. Appointments shall be for terms of four years, except for appointments to fill vacancies which shall be for the unexpired terms. All terms shall commence July 1 of the year in which the term is to begin.

B. No person shall serve as a member of the Board for more than two consecutive terms of two or more years, and no person who has served two such terms consecutively may be reappointed to the Board without the lapse of one year between terms. *The State Rehabilitation Council is established as a designated state council in the executive branch of government for the purpose of providing advice to and performing other functions for the Department of Rehabilitative Services regarding its programs, including vocational services provided pursuant to Title I and Title VI of the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. and 29 U.S.C. § 795 et seq., respectively). Membership, terms, and meeting requirements shall be in accordance with federal provisions as provided in 29 U.S.C § 725.*

§ 51.5-5. Powers and duties of Council.

The ~~Board~~ Council shall exercise the following general powers and duties:

1. Provide access to the Department;
2. Publicize the policies and programs of the Department in order to educate the public and elicit public support for the Department's programs;
3. Monitor the activities of the Department and have the right of access to Department information, provided that such access does not violate the confidentiality of client records;
4. Advise the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to and the protection of the rights of persons with disabilities on matters relating to this title, and on such other matters as the Governor, Secretary, Commissioner, or the General Assembly may request;
5. Advise on programmatic and fiscal policies governing the provision of services by the Department of Rehabilitative Services and the awarding of grants or contracts to any person or any public or private agency by the Department;
6. Review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Secretary of Health and Human Resources and the Governor and on all applications for federal funds;
7. Advise on such regulations as may be necessary to carry out the provisions of the laws of the Commonwealth administered by the Commissioner of the Department; and
8. *Perform such other duties as may be prescribed to the Council by Title I and Title VI of the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. and 29 U.S.C. § 795 et seq., respectively).*

§ 51.5-14.01. Commissioner to establish regulations regarding human research.

*The Commissioner shall promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or authorized by the Department, any sheltered workshop, or independent living center, or Woodrow Wilson Rehabilitation Center. The regulations shall require the human research review committee, as provided in 32.1-162.19, to submit to the Governor, the General Assembly, and the Commissioner or his designee, at least annually, a report on the human research projects reviewed and approved by the committee and shall require the committee to report any significant deviations from the proposals as approved.*

**2. That §§ 51.5-5.1, 51.5-6 and 51.5-9.01 of the Code of Virginia are repealed.**

**3. That regulations promulgated by the Board of Rehabilitative Services and in effect prior to the effective date of this act shall continue mutatis mutandis until the Commissioner of the Department of Rehabilitative Services promulgates new regulations. The Commissioner shall promulgate as soon as practicable any necessary changes to the regulations resulting from the consolidation of the Board of Rehabilitative Services and the State Rehabilitation Council.**