

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 404

An Act to amend and reenact § 37.2-837 of the Code of Virginia, relating to discharge from a training center.

[H 1790]

Approved March 23, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-837 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-837. Discharge from state hospitals or training centers, conditional release, and trial or home visits for consumers.

A. Except for a state hospital consumer held upon an order of a court for a criminal proceeding, the director of a state hospital or training center may discharge, after the preparation of a discharge plan:

1. Any consumer in a state hospital who, in his judgment, (a) is recovered, (b) does not have a mental illness, or (c) is impaired or not recovered but whose discharge will not be detrimental to the public welfare or injurious to the consumer;

2. Any consumer in a state hospital who is not a proper case for treatment within the purview of this chapter; or

3. Any consumer in a training center ~~who chooses to be discharged or, if the consumer lacks the mental capacity to choose, whose legally authorized representative chooses for him to be discharged, but only upon consent of the consumer or, if the consumer lacks capacity to consent, upon consent of his legally authorized representative, and following disclosure of information regarding the actual availability and accessibility of services sufficient to meet the needs of the consumer in the community.~~ Pursuant to regulations of the Centers for Medicare & Medicaid Services and the Department of Medical Assistance Services, no consumer at a training center who is enrolled in Medicaid shall be discharged if the consumer or his legally authorized representative on his behalf chooses to continue receiving services in a training center.

For all individuals discharged, the discharge plan shall be formulated in accordance with the provisions of § 37.2-505 by the community services board or behavioral health authority that serves the city or county where the consumer resided prior to admission or by the board or authority that serves the city or county where the consumer or his legally authorized representative on his behalf chooses to reside immediately following the discharge. The discharge 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 or behavioral health authorities, and shall identify (i) the services, including mental health, mental retardation, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the consumer will require upon discharge into the community and (ii) the public or private agencies that have agreed to provide these services. If the individual will be housed in an assisted living facility, as defined in § 63.2-100, the discharge plan shall identify the facility, document its appropriateness for housing and capacity to care for the consumer, contain evidence of the facility's agreement to admit and care for the consumer, and describe how the community services board or behavioral health authority will monitor the consumer's care in the facility.

B. The director may grant a trial or home visit to a consumer in accordance with regulations adopted by the Board. The state facility granting a trial or home visit to a consumer shall not be liable for his expenses during the period of that visit. Such liability shall devolve upon the relative, conservator, person to whose care the consumer is entrusted while on the trial or home visit, or the appropriate local department of social services of the county or city in which the consumer resided at the time of admission pursuant to regulations adopted by the State Board of Social Services.

C. Any consumer who is discharged pursuant to subdivision A 2 shall, if necessary for his welfare, be received and cared for by the appropriate local department of social services. The provision of public assistance or social services to the consumer shall be the responsibility of the appropriate local department of social services as determined by regulations adopted by the State Board of Social Services. Expenses incurred for the provision of public assistance to the consumer who is receiving 24-hour care while in an assisted living facility licensed pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 shall be the responsibility of the appropriate local department of social services of the county or city in which the consumer resided at the time of admission.

2. That the provisions of this act shall not become effective unless reenacted by the 2012 Session of the General Assembly.