

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 153

An Act to amend and reenact §§ 37.2-505 and 37.2-837 of the Code of Virginia, relating to state hospitals; discharge planning.

[S 179]

Approved March 26, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-505 and 37.2-837 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-505. Coordination of services for preadmission screening and discharge planning.

A. The community services board shall fulfill the following responsibilities:

1. Be responsible for coordinating the community services necessary to accomplish effective preadmission screening and discharge planning for persons referred to the community services board. When preadmission screening reports are required by the court on an emergency basis pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the report for the court. To accomplish this coordination, the community services board shall establish a structure and procedures involving staff from the community services board and, as appropriate, representatives from (i) the state hospital or training center serving the board's service area, (ii) the local department of social services, (iii) the health department, (iv) the Department for Aging and Rehabilitative Services office in the board's service area, (v) the local school division, and (vi) other public and private human services agencies, including licensed hospitals.

2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health services while in a city or county served by the community services board. In the case of inmates incarcerated in a regional jail, each community services board that serves a county or city that is a participant in the regional jail shall review any existing Memorandum of Understanding between the community services board and any other community services boards that serve the regional jail to ensure that such memorandum sets forth the roles and responsibilities of each community services board in the preadmission screening process, provides for communication and information sharing protocols between the community services boards, and provides for due consideration, including financial consideration, should there be disproportionate obligations on one of the community services boards.

3. Provide, in consultation with the appropriate state hospital or training center, discharge planning for any individual who, prior to admission, resided in a city or county served by the community services board ~~or who chooses to reside after discharge in a city or county served by the board and who is to be released from a state hospital or training center pursuant to § 37.2-837. In the case of any individual to be discharged from Central State Hospital, Southwestern Virginia Mental Health Institute, or Southern Virginia Mental Health Institute in 30 days or less after admission, the appropriate community services board shall implement the discharge plan developed by the state facility.~~ Upon initiation of discharge planning, the community services board that serves the city or county where the individual resided prior to admission shall inform the individual that he may choose to return to the county or city in which he resided prior to admission or to any other county or city in the Commonwealth. If the individual is unable to make informed decisions regarding his care, the community services board shall so inform his authorized representative, who may choose the county or city in which the individual shall reside upon discharge. In either case and to the extent permitted by federal law, for individuals who choose to return to the county or city in which they resided prior to admission, the community services board shall make every reasonable effort to place the individuals in such county or city. The community services board serving the county or city in which he will reside following discharge shall be responsible for arranging transportation for the individual upon request following the discharge protocols developed by the Department.

The discharge plan shall be completed prior to the individual's discharge. The plan shall be prepared with the involvement and participation of the individual receiving services or his representative and must reflect the individual's preferences to the greatest extent possible. The plan shall include the mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will need upon discharge into the community and identify the public or private agencies that have agreed to provide these services.

No individual shall be discharged from a state hospital or training center without completion by the community services board of the discharge plan described in this subdivision. If state hospital or training center staff identify an individual as ready for discharge and the community services board that is responsible for the individual's care disagrees, the community services board shall document in the treatment plan within 72 hours of the individual's identification any reasons for not accepting the

individual for discharge. If the state hospital or training center disagrees with the community services board and the board refuses to develop a discharge plan to accept the individual back into the community, the state hospital or training center or the community services board shall ask the Commissioner to review the state hospital's or training center's determination that the individual is ready for discharge in accordance with procedures established by the Department in collaboration with state hospitals, training centers, and community services boards. If the Commissioner determines that the individual is ready for discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate services for the individual and the protection of the community. The Commissioner also shall verify that sufficient state-controlled funds have been allocated to the community services board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider, another community services board, or a behavioral health authority to deliver the services specified in the discharge plan and withhold allocated funds applicable to that individual's discharge plan from the community services board in accordance with subsections C and E of § 37.2-508.

4. Provide information, if available, to all hospitals licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 about alcohol and substance abuse services available to minors.

B. The community services board may perform the functions set out in subdivision A 1 in the case of children by referring them to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The community services board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

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

A. Except for an individual receiving services in a state hospital who is 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 individual in a state hospital who, in his judgment, ~~(a)~~ (i) is recovered, ~~(b)~~ (ii) does not have a mental illness, or ~~(c)~~ (iii) is impaired or not recovered but whose discharge will not be detrimental to the public welfare or injurious to the individual;

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

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

Central State Hospital, Southern Virginia Mental Health Institute, and Southwestern Virginia Mental Health Institute shall, in consultation with the appropriate community services board or behavioral health authority, provide discharge planning for any individual to be discharged from the state hospital in 30 days or less after admission. For all individuals discharged from any other state facility in 30 days or less after admission, or from a state hospital more than 30 days after admission, or from a state training center, 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 individual resided prior to admission or by the board or authority that serves the city or county where the individual 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, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual 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 individual, contain evidence of the facility's agreement to admit and care for the individual, and describe how the community services board or behavioral health authority will monitor the individual's care in the facility. Prior to discharging an individual pursuant to subdivision A 1 or 2 who has not executed an advance directive, the director of a state hospital or his designee shall give to the individual a written explanation of the procedures for executing an advance directive in accordance with the Health Care Decisions Act (§ 54.1-2981 et seq.) and an advance directive form, which may be the form set forth in § 54.1-2984.

B. The director may grant a trial or home visit to an individual receiving services in accordance with regulations adopted by the Board. The state facility granting a trial or home visit to an individual 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 individual 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 individual resided at the time of admission pursuant to regulations adopted by the State Board of Social Services.

C. Any individual 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 individual 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 individual 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 individual resided at the time of admission.

2. That the Department of Behavioral Health and Developmental Services shall report to the Governor and the General Assembly by August 1, 2025, and each year thereafter, the following information: (i) the readmission rates of any individual discharged from Central State Hospital, Southern Virginia Mental Health Institute, and Southwestern Virginia Mental Health Institute in 30 days or less after admission; (ii) the impact of the changes to discharge planning implemented by this act on Central State Hospital, Southern Virginia Mental Health Institute, and Southwestern Virginia Mental Health Institute; and (iii) census information of Central State Hospital, Southern Virginia Mental Health Institute, and Southwestern Virginia Mental Health Institute.

3. That the Department of Behavioral Health and Developmental Services shall provide the Senate Committee on Education and Health and the House Committee on Health and Human Services with an evaluation of the impact of the changes to discharge planning implemented by this act by November 1, 2025.

4. That the provisions of this act shall become effective on January 1, 2025.