

LD5135673

SENATE BILL NO. 916

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on January 31, 1995)

(Patron Prior to Substitute—Senator Holland, C.A.)

A BILL to amend the Code of Virginia by adding in Title 15.1 a chapter numbered 43, consisting of sections numbered 15.1-1676 through 15.1-1687, authorizing behavioral health authorities.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 15.1 a chapter numbered 43, consisting of sections numbered 15.1-1676 through 15.1-1687 as follows:

CHAPTER 43.

BEHAVIORAL HEALTH AUTHORITIES.

§ 15.1-1676. Behavioral health authorities; purpose.

Conditions resulting from evolving health care reform and behavioral health care delivery system reforms necessitate public instrumentalities to respond, organize and effect mental/behavioral health care coverage and services for citizens of the Commonwealth. Behavioral health authorities are required so that the administration of public funds resides at the same organizational level, the behavioral health authority, as the responsibility and accountability for consumers and services. Such a public instrumentality is in the public interest and hereby authorized consistent with the following legislative provisions.

§ 15.1-1677. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means a behavioral health authority, a public body and a body corporate and politic organized in accordance with the provisions of this chapter for the purposes and with the powers and duties hereinafter set forth.

"Behavioral health" means the full range of mental health care, mental retardation, developmental disabilities and substance abuse services, and the full range of treatment modalities including, but not limited to, emergency, prevention, early intervention, outpatient, inpatient, day support, residential, and other appropriate services to effect an accessible and integrated continuum of care.

"Behavioral health authority board of directors" means the public body organized in accordance with provisions of this chapter and accountable to the local governing bodies.

"Behavioral health project" means all facilities suitable for providing adequate facilities and care for concentrated centers of population, and shall also include structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto.

"Member" means the respective local governing body's appointee to the behavioral health authority board of directors.

"Service area" means the city participating in and formulating the behavioral health authority.

"State Board" means the Virginia Mental Health, Mental Retardation and Substance Abuse Services Board.

"Unit" means any department, institution or commission of the Commonwealth and any public corporate instrumentality thereof, and any district, and shall include counties and municipalities.

§ 15.1-1678. Governing body to pass resolution.

The governing body of any city with a population of 350,000 or greater wishing to establish a behavioral health authority shall declare its intention by resolution.

§ 15.1-1679. Board of directors; appointment; membership.

Every such city establishing a behavioral health authority, before it comes within the provisions of this chapter, shall establish a board of directors with neither less than five nor more than eighteen members. When any such city establishes a behavioral health authority, the board of directors shall be appointed by the governing body of the city. Appointments to the board of directors shall be broadly representative of the community, to include consumers and family members of consumers when practical.

No board of directors shall be composed of a majority of elected officials as members.

The board of directors appointed pursuant to this section shall be responsible to the governing body of the city which established such authority.

§ 15.1-1680. Board of directors; terms; vacancies; removal.

The term of office of each member of the behavioral health authority board of directors shall be for three years from January 1 of the year of appointment, or, at the option of the governing body of the city, from July 1 of the year of appointment, except that of the members first appointed, several shall be

60 appointed for terms of one year each, several for terms of two years each, and the remaining members
61 for terms of three years each. The selection of members for one, two, and three-year terms shall be as
62 nearly equal as possible with regard to the total number of members. If the governing body has
63 appointed members for terms commencing January 1 or July 1 but desires to change the date the terms
64 of office commence, the governing body may, as the terms of the members then in office expire, appoint
65 successors for terms of two and one-half or three and one-half years so as to expire on June 30 or
66 December 31. Vacancies shall be filled for unexpired terms in the same manner as original
67 appointments. No person shall be eligible to serve more than two successive terms, although persons
68 appointed to fill vacancies may serve two additional successive terms. Any member of the board of
69 directors may be removed by the appointing governing body for cause, after being given a written
70 statement of the causes and an opportunity to be heard thereon.

71 § 15.1-1681. Behavioral health authority board of directors officers; meetings.

72 The members of the behavioral health authority board of directors shall annually elect one of their
73 members as chairman and another as vice-chairman and shall also elect a secretary and a treasurer for
74 terms to be determined by the members, who may or may not be one of the members. The same person
75 may serve as both secretary and treasurer. The members shall make such rules, regulations and bylaws
76 for their own government and procedure as they shall determine; they shall meet at least once each
77 month and may hold such special meetings as they deem necessary.

78 § 15.1-1682. Behavioral health authorities; powers and duties.

79 Every authority shall be deemed to be a public instrumentality, exercising public and essential
80 governmental functions to provide for the public mental health, welfare, convenience and prosperity of
81 the residents and such other persons who might be served by the authority and to provide behavioral
82 health care and related services to such residents and persons. An authority is authorized to exercise the
83 following powers:

84 1. Review and evaluate all existing and proposed public community mental health, mental
85 retardation, and substance abuse services and facilities available to serve the community and such
86 private services and facilities as receive funds through the authority and advise the city as to its
87 findings.

88 2. Within amounts allocated by local, state, federal, Medicaid, and other payers, execute programs
89 and services for consumers in need.

90 3. Make and enter into all contracts or agreements, as the authority may determine, which are
91 necessary or incidental to the performance of its duties and to the execution of powers granted by this
92 chapter, including contracts with any federal agency, the Commonwealth, or with any unit thereof,
93 behavioral health providers, insurers, and managed care/health care networks on such terms and
94 conditions as the authority may approve.

95 4. Make rules or regulations concerning the rendition or operation of services and facilities under its
96 direction or supervision, subject to applicable standards or regulations promulgated by the State Mental
97 Health, Mental Retardation and Substance Abuse Services Board.

98 5. Appoint a chief executive officer of the behavioral health authority and prescribe his duties. The
99 compensation of such chief executive officer shall be fixed by the authority and he shall serve at the
100 pleasure of the authority.

101 6. Empower the chief executive officer to maintain a complement of professional staff to
102 operationalize the behavioral health authority's service delivery system.

103 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
104 jurisdiction or supervision of the authority and collection of the same. Every authority shall institute a
105 reimbursement system to maximize the collection of fees from persons receiving services under the
106 jurisdiction or supervision of the authority consistent with the provisions of § 37.1-202.1 and from
107 responsible third-party payers.

108 8. Accept loans, grants or assistance from the federal government, the Commonwealth, any
109 municipality thereof, or from any other sources, public or private, to carry out any of its purposes and
110 enter into any agreement or contract regarding or relating to the acceptance or use or repayment of
111 any such loan, grant or assistance.

112 9. Notwithstanding any provision of law to the contrary, disburse funds allocated to it in accordance
113 with applicable regulations.

114 10. Develop joint annual written agreements, consistent with policies and procedures established by
115 the State Board, with local school divisions; health departments; boards of social services; housing
116 agencies, where they exist; courts; sheriffs; area agencies on aging and regional Department of
117 Rehabilitative Services offices. The agreements shall specify what services will be provided to
118 consumers. All participating agencies shall develop and implement the agreements and shall review the
119 agreements annually.

120 11. Fulfill all other duties specified in the Code of Virginia pertaining to community services boards
121 to including: § 37.1-65.1 - judicial certification of eligibility for admission of mentally retarded persons;

§§ 37.1-67.1 through 37.1-67.6 - involuntary detention; § 37.1-197.1 - prescription team; § 37.1-198 - plans and budgets; § 37.1-199 - allocation of funds by the Department of Mental Health, Mental Retardation, and Substance Abuse Services; and § 37.1-202.1 - consumer liability for expenses of services.

12. Fulfill all applicable rules, regulations and standards pertaining to the rendition of mental health, mental retardation, and substance abuse services including, but not limited to, confidentiality, human research assurances, service and facility licensing, and client rights' protection.

13. As a public instrumentality, ensure compliance with all applicable organizational and administrative rules, regulations and standards pertaining to human resources; equal employment; fair labor practices; public procurement; risk management; and governmental finance and accounting requirements.

14. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures or other entities in carrying out any activities authorized by this chapter.

15. Transact its business, locate its offices and control, directly or through stock or nonstock corporations or other entities, facilities that will assist the authority in carrying out the purposes and intent of this chapter, including without limitations the power to own or operate, directly or indirectly, behavioral health facilities in its service area.

16. Plan, design, construct, renovate, enlarge, equip, maintain and operate programs for the purpose of providing behavioral health care and related services and other appropriate purposes.

17. Acquire property, real or personal, by purchase, gift, devise on such terms and conditions, and in such manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein, whenever it shall become expedient to do so.

18. Participate in joint ventures with individuals, corporations, partnerships, associations or other entities for providing behavioral health care or related services or other activities that the authority may undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent of this chapter.

19. Conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the authority or for the exercise of any of its powers.

20. As a public instrumentality, operationalize its administrative management infrastructure in whole or in part independent of the local governing body; however, nothing in the chapter precludes behavioral health authorities from acquiring support services through existing government entities.

21. Operationalize capital improvements and bonding through existing economic or industrial development authorities.

22. Establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as cities, counties and towns are permitted under § 51.1-801.

§ 15.1-1683. Exemption from taxation.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience and prosperity. As the operation and maintenance of any behavioral health project which the authority is authorized to undertake will constitute the performance of an essential governmental function, the authority shall not be required to pay any taxes or assessments upon any behavioral health project acquired or constructed by it, nor on the revenues generated by its operation.

§ 15.1-1684. Transfer of facilities and assets.

The governing body of the city is authorized to transfer to the authority the operation and maintenance of such suitable facilities as are now or may be hereafter owned by the city, on such terms and conditions which it may prescribe; but this section shall not be construed as authorizing the authority to maintain and operate such facilities until the operation thereof has been transferred by the governing body of the city.

§ 15.1-1685. Local appropriations.

The city is authorized to make appropriations and to provide funds for the operation of the authority and to further its purposes.

§ 15.1-1686. Proceedings for dissolution.

Whenever it appears to the board of directors of a behavioral health authority that the need for such authority in the city in which it was created no longer exists, then upon petition by the board of directors of the authority to the circuit court of such city after giving to the city thirty days' notice, and upon the production of the satisfactory evidence in support of such petition, the court may, in its discretion, enter an order declaring that the need for such authority in the city no longer exists and approving a plan for the winding up of the business of the authority, the payment or assumption of its obligations, and the transfer of its assets.

183 *§ 15.1-1687. When powers and duties cease to exist.*
184 *If the court shall enter an order, as provided in § 15.1-1686, that the need for such authority no*
185 *longer exists, then, except for the winding up of its affairs in accordance with the plan approved by the*
186 *court, its authorities, powers and duties to transact business or to function shall cease to exist as of that*
187 *date set forth in the order of the court.*