

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 861

*An Act to amend and reenact §§ 15.1-1677 through 15.1-1680, 15.1-1682, 15.1-1684, 15.1-1685 and 15.1-1686 of the Code of Virginia, relating to behavioral health authorities.*

[H 748]

Approved April 9, 1996

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

**1. That §§ 15.1-1677 through 15.1-1680, 15.1-1682, 15.1-1684, 15.1-1685 and 15.1-1686 of the Code of Virginia are amended and reenacted as follows:**

§ 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~~ *locality* 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, *any city with a population between 200,000 and 250,000 and any county with a population between 200,000 and 210,000* wishing to establish a behavioral health authority shall declare its intention by resolution.

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

Every ~~such city~~ *locality* 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~~ *locality* establishes a behavioral health authority, the board of directors shall be appointed by the governing body of the ~~city~~ *locality*. 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~~ *locality* 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~~ *locality*, from July 1 of the year of appointment, except that of the members first appointed, several shall be appointed for terms of one year each, several for terms of two years each, and the remaining members for terms of three years each. The selection of members for one, two, and three-year terms shall be as nearly equal as possible with regard to the total number of members. If the governing body has appointed members for terms commencing January 1 or July 1 but desires to change the date the terms of office commence, the governing body may, as the terms of the members then in office expire, appoint successors for terms of two and one-half or three and one-half years so as to expire on June 30 or December 31. Vacancies shall be filled for unexpired terms in the same manner as original appointments. No person shall be eligible to serve more than two successive terms, although persons appointed to fill vacancies may serve two additional successive terms. Any member of the board of

directors may be removed by the appointing governing body for cause, after being given a written statement of the causes and an opportunity to be heard thereon.

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

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

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

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

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

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

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

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

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

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

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

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

11. Fulfill all other duties specified in the Code of Virginia pertaining to community services boards 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.

23. Make an annual report to the State Mental Health, Mental Retardation and Substance Abuse Services Board of the authority's activities.

24. Ensure a continuation of all client services during any transition period.

§ 15.1-1684. Transfer of facilities and assets.

The governing body of the ~~city~~ *locality* 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~~ *locality*, 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~~ *locality*.

§ 15.1-1685. Local appropriations.

The ~~city~~ *locality* 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~~ *locality* 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~~ *locality* after giving to the ~~city~~ *locality* 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~~ *locality* 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.