

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 680

An Act to amend and reenact §§ 37.1-98, 37.1-194 through 37.1-199, 37.1-202.1, 37.1-242, 37.1-243, 37.1-245 through 37.1-248, and 37.1-250 through 37.1-253 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 37.1 a section numbered 37.1-48.1 and by adding sections numbered 37.1-194.1 and 37.1-248.1, relating to community mental health, mental retardation and substance abuse services; behavioral health authorities; Comprehensive State Plan.

[H 428]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.1-98, 37.1-194 through 37.1-199, 37.1-202.1, 37.1-242, 37.1-243, 37.1-245 through 37.1-248, and 37.1-250 through 37.1-253 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 37.1 a section numbered 37.1-48.1 and by adding sections numbered 37.1-194.1 and 37.1-248.1 as follows:

§ 37.1-48.1. Comprehensive State Plan for mental health, mental retardation and substance abuse services.

The Department, in consultation with community services boards, behavioral health authorities and state mental health and mental retardation facilities and with consumers, consumers' families, advocacy organizations, and other interested parties, shall develop and update biennially a six-year Comprehensive State Plan for mental health, mental retardation and substance abuse services. The Comprehensive State Plan shall identify the needs of and the resource requirements for providing services and supports to persons with mental illness, mental retardation or alcohol or other drug abuse problems or dependence across the Commonwealth and shall propose strategies to address these needs. The Comprehensive State Plan shall be used in the development of the Department's biennial budget submission to the Governor.

§ 37.1-98. Discharge, conditional release, and convalescent status of patients.

A. The director of a state hospital may discharge any patient after the preparation of a predischARGE plan formulated in ~~cooperation~~ *accordance with the provisions of § 37.1-197.1* by the community services board which serves the political subdivision where the patient resided prior to hospitalization or with the board located within the political subdivision the patient chooses to reside in immediately following the discharge, except one held upon an order of a court or judge for a criminal proceeding, as follows:

1. Any patient who, in his judgment, is recovered.
2. Any patient who, in his opinion, is not mentally ill.
3. Any patient who is impaired or not recovered and whose discharge, in the judgment of the director, will not be detrimental to the public welfare, or injurious to the patient.
4. Any patient who is not a proper case for treatment within the purview of this chapter.

~~The predischARGE plan required by this paragraph shall, at a minimum, (i) specify the services required by the released patient in the community to meet the individual's needs for treatment, housing, nutrition, physical care and safety; (ii) specify any income subsidies for which the individual is eligible; (iii) identify all local and state agencies which will be involved in providing treatment and support to the individual; and (iv) specify services which would be appropriate for the individual's treatment and support in the community but which are currently unavailable.~~ For all individuals discharged on or after January 1, 1987, the predischARGE plan shall be contained in a uniform discharge document developed by the Department and used by all state hospitals. If the individual will be housed in an adult care residence, as defined in § 63.1-172, the plan shall so state.

B. The director may grant convalescent status to a patient in accordance with rules prescribed by the Board. The state hospital granting a convalescent status to a patient shall not be liable for his expenses during such period. Such liability shall devolve upon the relative, committee, person to whose care the patient is entrusted while on convalescent status, or the appropriate local public welfare agency of the county or city of which the patient was a resident at the time of admission. The provision of social services to the patient shall be the responsibility of the appropriate local public welfare agency as determined by policy approved by the State Board of Social Services.

C. Any patient who is discharged pursuant to subdivision A 4 hereof shall, if necessary for his welfare, be received and cared for by the appropriate local public welfare agency. The provision of social services to the patient shall be the responsibility of the appropriate local public welfare agency as determined by policy approved by the State Board of Social Services. Expenses incurred by the provision of public assistance to the patient, who is receiving twenty-four-hour care while in an adult care residence licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1, shall be the

responsibility of the appropriate local public welfare agency of the county or city of which the patient was a resident at the time of admission.

§ 37.1-194. Purpose; services to be provided.

The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, mental retardation and substance abuse services in the Commonwealth, may ~~make matching grants provide funds~~ to assist any city or county having a population of approximately 50,000 or more or any city having a population of approximately 75,000 or more, or any combination of political subdivisions having a combined population of approximately 50,000 or more, or any city or county or combination thereof which has less than the above prescribed populations which the Department determines is in need of such services, in the establishment and operation of local mental health, mental retardation and substance abuse programs *provision of such services*. Every county and or city shall establish, either singly or in combination with another political subdivision, a or combination of cities or counties or counties and cities shall establish a community services board. Every county or city or combination of cities or counties or cities and counties that has established a community services board shall, in consultation with its community services board, designate its board as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board ~~on or before July 1, 1983~~. The governing body or bodies of the political subdivision or subdivisions that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one political subdivision, the decision to change this designation shall be unanimous.

The core of ~~program~~ services to be provided by operating community services boards, administrative policy community services boards or local government departments with policy-advisory community services boards within the political subdivisions that they serve shall include emergency services, and case management services subject to such funds as may be appropriated therefor, and may include a comprehensive system of inpatient services, outpatient, and day-support services, residential services, prevention and, early intervention services, and other appropriate mental health, mental retardation and substance abuse programs services necessary to provide a comprehensive system of individualized services and supports to persons with mental illnesses, mental retardation, or alcohol or other drug abuse problems or dependence.

§ 37.1-194.1. Definitions.

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

"Administrative policy community services board" or "administrative policy board" means the public body organized in accordance with the provisions of this chapter that is appointed by and accountable to the local governing body of each political subdivision that established it to set policy for and administer the provision of mental health, mental retardation and substance abuse services. The "administrative policy community services board" or "administrative policy board" denotes the board, the members of which are appointed pursuant to § 37.1-195 with the powers and duties enumerated in §§ 37.1-197 B and 37.1-197.1. Mental health, mental retardation and substance abuse services are provided through local government staff, or through contracts with other organizations and providers.

"Operating community services board" or "operating board" means the public body organized in accordance with the provisions of this chapter that is appointed by and accountable to the local governing body of each political subdivision that established it for the direct provision of mental health, mental retardation and substance abuse services. The "operating community services board" or "operating board" denotes the board, the members of which are appointed pursuant § 37.1-195 with the powers and duties enumerated in §§ 37.1-197 A and 37.1-197.1. "Operating community services board" or "operating board" also includes the organization that provides such services, through its own staff or through contracts with other providers, unless the specific context indicates otherwise.

"Performance contract" means the annual agreement negotiated by an operating community services board, an administrative policy community services board, or a local government department and its policy-advisory community services board with the Department through which it provides state and federal funds appropriated for mental health, mental retardation and substance abuse services to that operating community services board, administrative policy community services board or local government department with a policy-advisory community services board.

"Policy-advisory community services board" or "policy-advisory board" means the public body organized in accordance with the provisions of this chapter that is appointed by and accountable to the local governing body of each political subdivision that established it to provide advice on policy matters to the local government department that provides mental health, mental retardation and substance abuse services pursuant to §§ 37.1-197 A and 37.1-197.1. The "policy-advisory community services board" or "policy-advisory board" denotes the board, the members of which are appointed pursuant to § 37.1-195 with the powers and duties enumerated in § 37.1-197 C.

§ 37.1-195. Community services board; appointment; membership; duties of fiscal agent.

A. Every city, county or combination of counties or cities or counties and cities ~~establishing a community mental health, mental retardation and substance abuse services program~~, before it shall come

within the provisions of this ~~aet~~ *chapter*, shall establish a single community services board, with neither less than ~~five~~ *six* nor more than eighteen members. When any city or county singly establishes a ~~program~~ *community services board*, the board shall be appointed by the governing body of the local political subdivision establishing such a ~~program~~ *the board*. When any combination of counties or cities or counties and cities establishes a community services ~~program~~ *board*, the board of supervisors of each county ~~in the case of counties~~ or the council ~~in the case of cities~~ *each city* shall ~~establish mutually agree~~ on the size of the board; ~~shall elect and appoint the members of the community services board and shall designate an official of one member city or county to act as fiscal agent for the board.~~

Appointments to the community services board shall be broadly representative of the community and ~~shall include representation by.~~ *One-third of the appointments to the board shall be identified consumers or family members of consumers, at least one of whom shall be a consumer receiving services. One or more members may be nongovernmental service providers. Sheriffs or their designees shall also be included, when practical.*

The county or city which comprises a single board and the county or city whose designated official serves as fiscal agent for the board in the case of joint boards shall annually audit the total revenues of the board and its programs and shall, in conjunction with the other participating political subdivisions in the case of joint boards, arrange for the provision of legal services to the board.

No such board shall be composed of a majority of ~~elected local government~~ officials, *elected or appointed*, as members, nor shall any county or city be represented on such board by more than ~~one~~ *two* elected ~~official~~ or *appointed officials*.

The board appointed pursuant to this section shall be responsible to the governing body or bodies of the county or city or combination thereof ~~which~~ *that* established such board.

B. A city council or county board of supervisors may designate its community services board as (i) an operating board, (ii) an administrative policy board, or (iii) a policy-advisory board. A combination of cities or counties or cities and counties may establish a joint community services board either as (i) an operating board, (ii) an administrative policy board, or (iii) a policy-advisory board.

C. The county or city or combination of cities or counties, or cities and counties that establishes an operating board shall receive an independent annual audit of the total revenues, expenditures, and data of that operating board, and shall provide a copy of the audit to the Department. The county or city or combination of cities or counties or cities and counties that establishes an operating board shall designate an official of one member city or county to act as fiscal agent for the board. The county or city whose designated official serves as fiscal agent for the board in the case of joint boards shall review and act upon the independent audit of the board, and shall, in conjunction with the other participating political subdivisions, arrange for the provision of legal services to the board.

D. The county or city or combination of cities or counties, or cities and counties that establishes an administrative policy board shall receive an independent annual audit of the total revenues, expenditures, and data of the administrative policy board, provide a copy of the audit to the Department, and arrange for the provision of legal services to the board. When a combination of cities or counties establishes an administrative policy board, the participating subdivisions shall designate an official of one member city or county to act as fiscal agent for the board. The county or city whose designated official serves as fiscal agent for the board in the case of joint boards shall review and act upon the independent audit of the board, and shall, in conjunction with the other participating political subdivisions in the case of joint boards, arrange for the provision of legal services to the board.

E. The county or city or combination of cities or counties, or cities and counties that establishes a policy-advisory board shall provide an annual audit of the total revenues, expenditures, and data of the city or county government department to the board and the Department, carry out the responsibilities and duties enumerated in §§ 37.1-197 A and 37.1-197.1, and provide legal services to the board. When a combination of cities or counties or cities and counties establishes a policy-advisory board, the participating subdivisions shall designate which local government shall operate the city or county government department. This local government shall provide an annual audit of the total revenues, expenditures, and data of that department to the board and the Department, carry out the responsibilities and duties enumerated in §§ 37.1-197 A and 37.1-197.1, and, in conjunction with the other participating political subdivisions in the case of joint boards, arrange for the provision of legal services to the board.

§ 37.1-196. Same; term; vacancies; removal.

The term of office of each member of the *operating* community services boards, *the administrative policy boards, or policy-advisory boards* shall be for three years from ~~the first day of~~ January 1 of the year of appointment, or, at the option of the governing body of a county or city, from ~~the first day of~~ 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 of the board for terms of three years each. The selection of members for one-year, two-year, and three-year terms shall be as nearly equal as possible with regard to the total number of members on the board. If a governing body has appointed members for terms commencing January ~~one~~ 1 or July ~~one~~ 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 ~~thirty~~ 30 or December ~~thirty-one~~ 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~~ *three full three-year terms*; ~~provided that however,~~ persons heretofore or hereafter appointed to fill vacancies may serve ~~two~~ *three* additional ~~successive full three-year~~ terms. Any member of a board may be removed by the appointing authority for cause, after being given a written statement of the causes and an opportunity to be heard thereon.

§ 37.1-196.1. Compensation of board members.

The governing body of any county or city, or the governing bodies of any combination thereof, which establishes ~~a~~ *an operating community services board, an administrative policy board, or a policy-advisory board* may, out of the general fund or funds of the participating political subdivisions, pay to each member of the board not in excess of \$600 per year as compensation for his attendance at meetings of the board. No political subdivision shall be reimbursed out of either state or federal funds for any part of the compensation paid.

§ 37.1-197. Community services boards; local government department; powers and duties.

A. Every *operating community services board or local government department with a policy-advisory board* shall have the following powers and duties:

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 board~~ it and advise the ~~appropriate local governments governing body or bodies of the political subdivision or subdivisions that established it~~ as to its findings.

2. Pursuant to § 37.1-198, submit to the governing body ~~or bodies~~ of each political subdivision, ~~of which that established it is an agency, a program of an annual performance contract for community mental health, mental retardation and substance abuse services and facilities for its approval prior to submission of the contract to the Department.~~

3. Within amounts appropriated therefor, ~~execute such programs and maintain~~ provide such services as may be authorized under such ~~appropriations~~ performance contract.

4. In accordance with its approved ~~program~~ performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.

5. *In the case of operating boards*, make rules, policies, or regulations concerning the rendition or operation of services and facilities under its direction or supervision, subject to applicable standards, policies, or regulations promulgated by the State Board.

6. *In the case of operating boards*, appoint a ~~coordinator or an executive director~~ of community mental health, mental retardation and substance abuse services, according to minimum qualifications as ~~may be~~ established by the Department, and prescribe his duties. The compensation of ~~such coordinator or the executive director~~ shall be fixed by the operating board within the amounts made available by appropriation therefor. *The executive director shall serve at the pleasure of the operating board and be employed under an annually renewable contract that contains performance objectives and evaluation criteria. For operating boards, the Department shall approve (i) the selection of the executive director for adherence to minimum qualifications established by the Department and (ii) the salary ranges of the executive director and senior management staff. In the case of a local government department with a policy-advisory board, the director of the local government department shall serve as the executive director. The policy-advisory board shall participate in the selection and the annual performance evaluation of the executive director, according to minimum qualifications established by the Department. The compensation of the executive director shall be fixed by local government in consultation with the policy-advisory board within the amounts made available by appropriation therefor.*

7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the board and *establish procedures for the collection of the same*. All fees collected shall be included in the ~~program~~ performance contract submitted to the local governing body or bodies pursuant to subdivision 2 hereof and ~~in the budget submitted to the local governing body or bodies pursuant to § 37.1-198~~ and shall be used only for community mental health, mental retardation and substance abuse purposes. Every *operating board and local government department with a policy-advisory board* shall institute a reimbursement system to maximize the collection of fees from persons receiving services under ~~the their~~ jurisdiction or supervision ~~of the board~~ consistent with the provisions of § 37.1-202.1 and from responsible third-party payors. *Operating boards and local government departments with policy-advisory boards* shall not attempt to bill or collect fees for time spent participating in involuntary commitment hearings pursuant to § 37.1-67.3.

8. Accept or refuse gifts, donations, bequests or grants of money or property from any source and utilize the same as authorized by the governing body or bodies of the political subdivision or subdivisions ~~of which that established it is an agency~~.

9. Seek and accept funds through federal grants. In accepting such grants the *operating board or local government department with a policy-advisory board* shall not bind the governing body or bodies of the political subdivision or subdivisions ~~of which that established it is an agency~~ to any expenditures

or conditions of acceptance without the prior approval of such governing body or bodies.

10. Have authority, notwithstanding any provision of law to the contrary, to disburse funds appropriated to it in accordance with such regulations as may be established by the governing body or bodies of the political subdivision of which the board is an agency or, in the case of a joint board, as may be established by agreement or subdivisions that established it.

11. Apply for and accept loans as authorized by the governing body or bodies of the political subdivision or subdivisions of which that established it is an agency. This provision is not intended to affect the validity of loans so authorized and accepted prior to July 1, 1984.

12. 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 clients consumers. All participating agencies shall develop and implement the agreements and shall review the agreements annually.

13. Develop and submit to the Department the necessary information for the preparation of the Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to § 37.1-48.1.

14. Take all necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and services planning, delivery, and evaluation.

15. Institute, singly or in combination with other operating boards, administrative policy boards, local government departments with policy-advisory boards, or behavioral health authorities a dispute resolution mechanism that is approved by the Department and enables consumers and family members of consumers to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the operating board or local government department with a policy-advisory board.

16. Notwithstanding the provisions of § 37.1-84.1 or any regulations promulgated thereunder, release data and information about individual consumers to the Department so long as the Department implements procedures to protect the confidentiality of such information.

B. Every administrative policy community services board shall:

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 it and advise the local governing body or bodies of the political subdivision or subdivisions that established it as to its findings.

2. Pursuant to § 37.1-198, submit to the governing body of each political subdivision that established it, an annual performance contract for community mental health, mental retardation and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated therefor, provide such services as may be authorized under such performance contract.

4. In accordance with its approved performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.

5. Make rules, policies, or regulations concerning the rendition or operation of services and facilities under its direction or supervision, subject to applicable standards, policies or regulations promulgated by the State Board.

6. Participate with local government in the appointment and annual performance evaluation of an executive director of community mental health, mental retardation and substance abuse services, according to minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by local government in consultation with the board within the amounts made available by appropriation therefor.

7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the board and establish procedures for the collection of the same. All fees collected shall be included in the performance contract submitted to the local governing body or bodies pursuant to subdivision 2 of this subsection and § 37.1-198 and shall be used only for community mental health, mental retardation and substance abuse purposes. Every administrative policy board shall institute a reimbursement system to maximize the collection of fees from persons receiving services under their jurisdiction or supervision consistent with the provisions of § 37.1-202.1 and from responsible third-party payors. Administrative policy boards shall not attempt to bill or collect fees for time spent participating in involuntary commitment hearings pursuant to § 37.1-67.3.

8. Accept or refuse gifts, donations, bequests or grants of money or property from any source and utilize the same as authorized by the governing body or bodies of the political subdivision or subdivisions that established it.

9. Seek and accept funds through federal grants. In accepting such grants, the administrative policy community services boards shall not bind the governing body or bodies of the political subdivision or subdivisions that established it to any expenditures or conditions of acceptance without the prior

approval of such governing body or bodies.

10. Have authority, notwithstanding any provision of law to the contrary, to disburse funds appropriated to it in accordance with such regulations as may be established by the governing body or bodies of the political subdivision or subdivisions that established it.

11. Apply for and accept loans as authorized by the governing body or bodies of the political subdivision or subdivisions that established it.

12. 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.

13. Develop and submit to the local governing body of each political subdivision that established it and to the Department the necessary information for the preparation of the Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to § 37.1-48.1.

14. Take all necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and services planning, delivery, and evaluation.

15. Institute, singly or in combination with other operating community services boards, administrative policy boards, local government departments with policy-advisory boards, or behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables consumers and family members of consumers to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the administrative policy board.

16. Notwithstanding the provisions of § 37.1-84.1 or any regulations promulgated thereunder, release data and information about individual consumers to the Department so long as the Department implements procedures to protect the confidentiality of such information.

17. Carry out other duties and responsibilities as assigned by the governing body of each political subdivision that established it.

By local agreement between the administrative policy board and the governing body of the political subdivision that established it, additional responsibilities may be carried out by the local government, including, but not limited to, personnel or financial management. In the case of administrative policy boards established by more than one city or county, the participating subdivisions shall designate which local government shall assume these responsibilities.

C. Every policy-advisory community services board, with staff support provided by the director of the local government department, shall:

1. Advise the local government regarding rules, policies, or regulations for the rendition or operation of services and facilities by the local government department, subject to applicable standards, policies, or regulations promulgated by the State Board.

2. Review and evaluate the operations of the local government department and advise the local governing body of each political subdivision that established it as to its findings.

3. Review the community mental health, mental retardation and substance abuse services developed by the local government department and advise the local governing body of each political subdivision that established it as to its findings.

4. Review and comment on the annual performance contract, quarterly and annual performance reports, and Comprehensive State Plan proposals developed by the local government department. The board's comments shall be attached to the performance contract, performance reports, and Comprehensive State Plan proposals prior to their submission to the local governing body of each political subdivision that established it and to the Department.

5. Advise the local government as to the necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and services evaluation.

6. Participate in the selection and the annual performance evaluation of the local government department director employed by the city or county.

7. Carry out other duties and responsibilities as assigned by the governing body of each political subdivision that established it.

§ 37.1-197.1. Prescription team; prescreening; predischage planning.

A. In order to provide comprehensive mental health, mental retardation and substance abuse services within a continuum of care, the operating community services board, administrative policy board or local government department with a policy-advisory board shall function as the single point of entry into the publicly funded mental health, mental retardation and substance abuse services system and shall fulfill the following responsibilities:

1. Establish and coordinate the operation of a prescription team ~~which~~ that shall be composed of representatives from the operating community services board, administrative policy board or local

government department with a policy-advisory board, social services or public welfare department, health department, Department of Rehabilitative Services office serving in the community services board's area and, as appropriate, the social services staff of the state institution(s) serving the community services board's catchment area and the local school division. Such other human resources agency personnel may serve on the team as the team deems necessary. The team, under the direction of the operating community services board, administrative policy board or the local government department with a policy-advisory board, shall be responsible for integrating the community services necessary to accomplish effective prescreening and predischarge planning for ~~clients~~ consumers referred to the operating community services board, administrative policy community services board, or local government department with a policy-advisory board. When prescreening reports are required by the court on an emergency basis pursuant to § 37.1-67.3, the team may designate one team member to develop the report for the court and report thereafter to the team.

2. Provide prescreening services prior to the admission for treatment pursuant to § 37.1-65 or § 37.1-67.3 of any person who requires emergency mental health services while in a political subdivision served by the operating community services board, administrative policy board or local government department with a policy-advisory board.

3. ~~Cooperate and participate~~ Provide, in consultation with the appropriate state mental health facility or training center, predischarge planning for any person, who prior to ~~hospitalization~~ admission, resided in a political subdivision served by the operating community services board, administrative policy board, or local government department with a policy-advisory board or who chooses to reside after hospitalization in a political subdivision served by the board, who is to be released from a state ~~hospital~~ mental health facility or training center pursuant to § 37.1-98. The predischarge plan shall be completed prior to the person's discharge. The plan shall be prepared with the involvement and participation of the consumer or his representative and must reflect the consumer's preferences to the greatest extent possible. The plan shall include the mental health, mental retardation, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the consumer will need upon discharge into the community and identify the public or private agencies that have agreed to provide them.

4. No person shall be discharged from a state mental health facility or training center without completion by the operating board, administrative policy board, or local government department with a policy-advisory board of the predischarge plan described in subdivision 3 of this subsection. If state facility staff identify a patient or resident as ready for discharge and the operating board, administrative policy board, or local government department with a policy-advisory board that is responsible for the person's care disagrees, the operating board, administrative policy board or local government department with a policy-advisory board shall document in the treatment plan within thirty days of such person's identification any reasons for not accepting the person for discharge. If the state facility disagrees with the operating board, administrative policy board, or local government department with a policy-advisory board and the operating board, administrative policy board, or local government department with a policy-advisory board refuses to develop a predischarge plan to accept the person back into the community, the state facility or the operating board, administrative policy board, or local government department with a policy-advisory board shall request the Commissioner to review the state facility's determination that the person is ready for discharge in accordance with procedures established in the performance contract. If the Commissioner determines that the person is ready for discharge, a predischarge plan shall be developed by the Department to ensure the availability of adequate services for the consumer and the protection of the community. The Commissioner shall also verify that sufficient state-controlled funds have been allocated to the operating board, administrative policy board, or local government department with a policy-advisory board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider or another operating board, administrative policy board, or local government department with a policy-advisory board to deliver the services specified in the predischarge plan and withhold funds allocated applicable to that consumer's predischarge plan from the operating board, administrative policy board, or local government department with a policy-advisory board in accordance with § 37.1-198 C and E.

B. The operating community services board, administrative policy board, or local government department with a policy-advisory board may perform the functions set out in ~~subsection A hereof~~ subdivision A 1, regarding the prescription team, in the case of children by referring ~~clients~~ consumers who are minors 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 operating board, administrative policy board, or local government department with a policy-advisory 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.

§ 37.1-197.2. Background checks required.

A. Every operating community services board, administrative policy board, local government

department with a policy-advisory board and behavioral health authority shall, on and after July 1, 1997, require any applicant who accepts employment in any direct ~~client~~ consumer care position with the *operating community services board, administrative policy board, local government department with a policy-advisory board* or behavioral health authority to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding such applicant.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall submit a report to the requesting executive director of the *operating community services board, administrative policy board, local government department with a policy-advisory board* or the behavioral health authority. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the executive director of any *operating community services board, administrative policy board, local government department with a policy-advisory board* or behavioral health authority shall not be disseminated except as provided in this section.

B. ~~The~~ *Operating community services boards, administrative policy boards, local government departments with policy-advisory boards* and behavioral health authorities shall also require, as a condition of employment for all such applicants, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.1-248.8.

C. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the *operating community services board, administrative policy board, local government department with a policy-advisory board* or behavioral health authority, at its option, decides to pay such cost.

D. As used in this section, the term "direct ~~client~~ consumer care position" means any position with a job description that includes responsibility for (i) treatment, case management, health, safety, development or well-being of a ~~client~~ consumer, or (ii) immediately supervising a person in a position with such responsibility.

§ 37.1-198. Performance contract for mental health, mental retardation and substance abuse services.

A. *The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to operating boards, administrative policy boards or local government departments with policy-advisory boards to accomplish the purposes set forth in this chapter. Six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year, and solicit public comments for a period of sixty days.*

B. ~~Any city, county or combination of counties or cities or counties and cities which establishes a operating community services board administering a mental health, mental retardation and substance abuse services program, administrative policy board, or local government department with a policy-advisory board may apply for the assistance as provided in this act chapter by submitting annually to the Department its plan and budget proposed performance contract for the next fiscal year together with the (i) recommendations of the operating community services board thereon or administrative policy board's board of directors or the local government department's policy-advisory board and (ii) the approval by formal vote of the governing body of each political subdivision that established it. The plan and budget shall include a comprehensive needs assessment of the service area, an inventory of available services provided by the board and other local agencies and expected utilization of such services. The operating board, administrative policy board or local government department with a policy-advisory board shall make its proposed performance contract available for public review and solicit public comments for a period of thirty days prior to submitting it for the recommendations of the operating board or administrative policy board's board of directors or the local government department's policy-advisory board. To avoid disruptions in service continuity, the Department may provide up to five semi-monthly payments of state-controlled funds to allow sufficient time to complete public review, public comment, negotiation and approval of the performance contract. If the governing body of each political subdivision does not approve the proposed performance contract by September 15 of each year, the performance contract shall be deemed approved.~~

C. *The performance contract shall (i) delineate the responsibilities of the Department and the operating board, administrative policy board or the local government department and its policy-advisory board; (ii) specify conditions that must be met for the receipt of state-controlled funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) beginning on July 1, 2000, contain specific consumer outcome, provider performance, consumer satisfaction, and consumer and family member participation and involvement measures, and state facility bed utilization targets that have been negotiated with the operating board, administrative policy board or local government department with a policy-advisory board; (v) establish an enforcement mechanism, including notice and an appeal process,*

should an operating board, administrative policy board or local government department with a policy-advisory board fail to comply with any provisions of the contract, including provisions for remediation, the withholding of funds, methods of repayment of funds, and for the Department to exercise the provision of subsection E; and (vi) include reporting requirements and revenue, cost, service, and consumer information displayed in a consistent, comparable format determined by the Department.

The Department may provide for performance monitoring by an administrative services organization under contract with the Department in order to determine whether the operating boards, administrative policy boards or local government departments with policy-advisory boards are performing in accordance with the requirements of their respective performance contract.

D. No ~~program~~ operating community services board, administrative policy community services board or local government department with a policy-advisory board shall be eligible for a grant hereunder to receive state-controlled funds for mental health, mental retardation or substance abuse services after September 15 of each year unless (i) its ~~plan and budget have~~ performance contract has been approved by the governing body or bodies of each political subdivision of which that established it is an agency and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual consumer data and information, notwithstanding the provisions of § 37.1-84.1 or any regulations promulgated thereunder, to the Department in the format prescribed by the Department; and (iii) beginning on July 1, 2000, it uses standardized cost accounting and financial management systems approved by the Department.

E. If, after unsuccessful use of the remediation process described in the performance contract, an operating board or administrative policy board or local government department with a policy-advisory board remains in substantial noncompliance with its performance contract with the Department, the Department may, after affording the operating board or administrative policy board or local government department with a policy-advisory board an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the contract. Using the state-controlled resources associated with that contract, the Department, after consulting with the governing body of each political subdivision that established the operating board, administrative policy board or local government department with a policy-advisory board, may negotiate a performance contract with another operating board, administrative policy board, or local government department with a policy-advisory board or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

§ 37.1-199. Mental health, mental retardation and substance abuse services; allocation of funds by Department; withdrawal of funds.

(a) A. At the beginning of each fiscal year the Department ~~may~~ shall allocate available state-controlled funds to the operating community services boards, administrative policy boards, and local government departments with policy-advisory boards for disbursement in accordance with such Department approved ~~plans and budgets~~ performance contracts.

B. From time to time during the fiscal year, the Department shall review the ~~budgets and expenditures~~ performance reports of the various programs operating boards, administrative policy boards and local government departments with policy-advisory boards and the utilization management and review reports on their operations. If funds are not needed for a program to which they were allocated, the Department may withdraw such funds as are unencumbered, after reasonable notice and opportunity for hearing, and reallocate them to other programs. ~~If~~ The Department, after affording the operating board, administrative policy board or local government department with a policy-advisory board adequate opportunity to use the appeal process described in the performance contract, may withdraw funds from any operating community services board ~~program~~ which, administrative policy board or local government department with a policy-advisory board that is not being administered in accordance with the its approved plan and budget of the community services board performance contract; that does not need the funds, based on its performance reports or utilization management and review reports; or ~~which~~ that is not in compliance with the operational standards for such a program as community services that are promulgated by the State Board or that do not meet provider performance, consumer outcome, consumer satisfaction or consumer and family member involvement measures in its performance contract.

(b) C. The Department shall notify the governing body of each political subdivision that established the operating board, administrative policy board or local government department with a policy-advisory board before implementing any reduction of state-controlled funds. Before any political subdivision withdraws local government matching funds, it shall notify its operating board, administrative policy board or local government department with a policy-advisory board and the Department, since this could affect the amount of state-controlled funds provided by the Department.

D. Allocations to be made to each ~~local~~ operating board, administrative policy board, or local government department with a policy-advisory board shall be determined by the Department after careful consideration of all of the following factors:

(1). The total amount of funds appropriated for this purpose,;

(2). The total amount of *matching funds requested appropriated by the local board, cities and counties participating in the community services board;*

(3). The financial abilities of all of the cities and counties participating in the *local community services board to provide funds required to generate the requested state match;*

(4). The type and extent of ~~programs and services conducted~~ *provided or planned by the local operating community services board, administrative policy board or local government department with a policy-advisory board;*

(5). The availability of services provided by the ~~local operating board, administrative policy board or local government department with a policy-advisory board~~ *in the area served by it; and;*

(6). The ability of the ~~programs and services provided by the local operating board, administrative policy board, or local government department with a policy-advisory board~~ *to decrease financial costs to the Department and increase the effectiveness of patient treatment or training by reducing the number of patients consumers being admitted to or retained in state hospitals mental health facilities and training centers from the cities or counties participating in the local community services board; and*

7. *The performance of the operating board, administrative policy board or local government department with a policy-advisory board, as measured by provider performance, consumer outcome, consumer satisfaction, and consumer and family member involvement standards and criteria promulgated by the State Board.*

(e) E. Allocations to any one *operating board, administrative policy board, or local government department with a policy-advisory board* shall not exceed the following proportions, *unless a waiver is granted by the Department pursuant to policy promulgated by the State Board:*

(1). For the construction of facilities: *ninety percent of the total costs of amount of state and local matching funds provided for such construction.*

(2). For salaries and other operational costs: *ninety percent of the total costs amount of state and local matching funds provided for these expenses.*

(3) ~~[Repealed.]~~

(d) F. All fees collected ~~may~~ *shall* be kept by the *operating board, administrative policy board, or local government department with a policy-advisory board* and used for operational costs.

§ 37.1-202.1. Liability for expenses of services.

The income and estate of a ~~client~~ *consumer* shall be liable for the expenses of services ~~or facilities~~ under the jurisdiction or supervision of any *operating community services board which, administrative policy board, or local government department with a policy-advisory board* that are utilized by the ~~client~~ *consumer*. Any person or persons responsible for holding, managing or controlling the income and estate of the ~~patient~~ *consumer* shall apply such income and estate toward the expenses of the services ~~or facilities~~ utilized by the ~~client~~ *consumer*.

Any person or persons responsible for the support of a ~~client~~ *consumer* pursuant to § 20-61 or a common law duty to support shall be liable for the expenses of services ~~or facilities~~ under the jurisdiction or supervision of any *operating community services board which, administrative policy board, or local government department with a policy-advisory board* that are utilized by the ~~client~~ *consumer* unless the ~~client~~ *consumer*, regardless of age, qualifies for and is receiving aid under a federal or state program of assistance to the blind or disabled. Any such person or persons responsible for support of a ~~client~~ *consumer* pursuant to § 20-61 or a common-law duty to support shall no longer be financially liable, however, when a cumulative total of 1,826 days of (i) care and treatment or training for the ~~client~~ *consumer* in a ~~state hospital~~ *mental health facility or training center*; or (ii) the utilization by the ~~client~~ *consumer* of services ~~or facilities~~ under the jurisdiction or supervision of any *operating community services board, administrative policy board or local government department with a policy-advisory board*; or (iii) a combination of (i) and (ii) has passed, and payment for or a written agreement to pay the assessment for 1,826 days of care and services has been made. Not less than 3 ~~three~~ hours of service per day shall be required to include ~~1~~ *one* day in the cumulative total of 1,826 days of utilization of services under the jurisdiction or supervision of ~~a~~ *any operating community services board, administrative policy board, or local government department with a policy-advisory board*. In order to claim this exemption, the person or persons legally liable for the ~~client~~ *consumer* shall produce evidence sufficient to prove eligibility therefor.

§ 37.1-242. 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. *In* ~~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.

§ 37.1-243. 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, which shall include emergency, prevention, early intervention, outpatient, and case management services subject to such funds as may be appropriated therefor, and may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention and other appropriate mental health, mental retardation and substance abuse services to effect an accessible and integrated continuum of care necessary to provide individualized services and supports to persons with mental illnesses, mental retardation, or alcohol or other drug abuse problems or dependence.

"Behavioral health authority board of directors" means the public body organized in accordance with provisions of this chapter that is appointed by and accountable to the local governing body of the political subdivision that established it.

"Behavioral health project" means all facilities suitable for providing adequate facilities and care for concentrated centers of population, and shall also include includes 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 a person appointed by the local governing body's appointee body to the behavioral health authority board of directors.

"Performance contract" means the annual agreement negotiated by a behavioral health authority with the Department through which it provides state and federal funds appropriated for mental health, mental retardation and substance abuse services to that authority.

"Service area" means the locality participating in and formulating political subdivision that established 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 includes counties and municipalities.

§ 37.1-245. Board of directors; appointment; membership.

Every locality city or county 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 six nor more than eighteen members. When any such locality city or county establishes a behavioral health authority, the board of directors shall be appointed by the governing body of the locality political subdivision establishing the authority. Appointments to the board of directors shall be broadly representative of the community; to include. One-third of the appointments to the board shall be identified consumers and family members of consumers, at least one of whom shall be a consumer receiving services. One or more members may be nongovernmental services providers. Sheriffs or their designees shall also be included, when practical.

No board of directors shall be composed of a majority of include more than two local government elected or appointed officials as members.

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

The county or city that establishes a behavioral health authority shall receive an annual audit of the total revenues, expenditures and data from the authority and provide a copy of the audit to the Department.

§ 37.1-246. 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 locality city or county, 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-year, two-year, 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 that the terms 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 three full three-year terms, although persons appointed to fill vacancies may serve two three additional successive full three-year 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.

§ 37.1-247. Behavioral health authority board of directors officers; meetings.

The members of the behavioral health authority board of directors shall annually elect one of their

members as chairman and another as vice-chairman and shall also elect a secretary and a treasurer for terms to be determined by the members, who may or may not be one of the members. The same person may serve as both secretary and treasurer. The members shall make such rules, regulations, and bylaws for their own government and procedure as they shall determine; they shall meet at least once each month and may hold such special meetings as they deem necessary. *Such rules, regulations, and bylaws shall be submitted to the governing body of the political subdivision that established the authority for review and comment.*

§ 37.1-248. 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~~ *shall have the following powers and duties:*

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 ~~locality governing body of the political subdivision that established it~~ as to its findings.

2. *Pursuant to § 37.1-248.1 and in order to obtain state, local, federal, Medicaid, and other revenues appropriated or reimbursed for the provision of mental health, mental retardation and substance abuse services, submit to the governing body of the political subdivision that established it an annual performance contract for community mental health, mental retardation, and substance abuse services for its approval prior to submission of the contract to the Department.*

~~2- 3. Within amounts allocated by local, state, federal, Medicaid, and other payers, execute programs and services appropriated therefor, provide such services as may be authorized under such performance contract for consumers in need.~~

~~3- 4. In accordance with its approved performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.~~

4a. Make and enter into all other 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- 5. Make rules, policies, or regulations concerning the rendition or operation of services and facilities under its direction or supervision, subject to applicable standards, policies, or regulations promulgated by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

~~5- 6. Appoint a chief executive officer of the behavioral health authority, according to minimum qualifications established by the Department, and prescribe his duties. The compensation of such chief executive officer shall be fixed by the authority and he within the amounts made available by appropriation therefor. The chief executive officer shall serve at the pleasure of the authority's board of directors and be employed under an annually renewable contract that contains performance objectives and evaluation criteria. The Department shall approve (i) the selection of the chief executive officer for adherence to minimum qualifications established by the Department and (ii) the salary ranges of the chief executive officer and senior management staff.~~

~~6- 7. Empower the chief executive officer to maintain a complement of professional staff to operate the behavioral health authority's service delivery system.~~

7- 8. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the authority and establish procedures for the collection of the same. *All fees collected shall be included in the performance contract submitted to the local governing body pursuant to subdivision 2 hereof and § 37.1-248.1 and shall be used only for community mental health, mental retardation and substance abuse purposes.* 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. *Authorities shall not attempt to bill or collect fees for time spent participating in involuntary commitment hearings pursuant to § 37.1-67.3.*

~~8- 9. Accept loans, or refuse gifts, donations, bequests, or grants of money or property, or other assistance from the federal government, the Commonwealth, any municipality thereof, or from any other sources, public or private; utilize the same 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.~~

10. *Seek and accept funds through federal grants. In accepting such grants, the authority shall not bind the governing body of the political subdivision that established it to any expenditures or conditions of acceptance without the prior approval of such governing body.*

~~9- 11. Notwithstanding any provision of law to the contrary, disburse funds allocated to it in accordance with applicable regulations appropriated to it in accordance with applicable regulations.~~

12. Apply for and accept loans in accordance with regulations established by the board of directors.

~~10-~~ 13. 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.

14. Develop and submit to the Department the necessary information for the preparation of the Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to § 37.1-48.1.

15. Take all necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and service planning, delivery, and evaluation.

16. Institute, singly or in combination with other operating boards, administrative policy boards, local governments with policy-advisory boards, or behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables consumers and family members of consumers to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the authority.

17. Notwithstanding the provisions of § 37.1-84.1 and regulations promulgated thereunder, release data and information about individual consumers to the Department, so long as the Department implements procedures to protect the confidentiality of such information.

~~11-~~ 18. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia pertaining to community services boards including, but not limited to: § 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); § 37.1-84.1 (human rights); § 37.1-98.2 (exchange of information); § 37.1-183.1 (licensure); § 37.1-197.1 (prescription team); ~~§ 37.1-198 (plans and budgets);~~ § 37.1-197.2 (background checks); § 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-~~ 19. 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-~~ 20. 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-~~ 21. Acquire property, real or personal, by purchase, gift, or 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-~~ 22. 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-~~ 23. 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-~~ 24. 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-~~ 25. Operationalize capital improvements and bonding through existing economic or industrial development authorities.

~~22-~~ 26. 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-~~ 27. Make an annual report to the State Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services Board of the authority's activities.

~~24-~~ 28. Ensure a continuation of all ~~client~~ consumer services during any transition period.

§ 37.1-248.1. *Performance contract for mental health, mental retardation and substance abuse services.*

A. *The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to behavioral health authorities to accomplish the purposes set forth in this chapter. Six months prior to the beginning of each fiscal year, the Department shall make available to the public the standard performance contract form that it intends to use as the performance contract for that fiscal year, and solicit public comments for a period of sixty days.*

B. *Any behavioral health authority may apply for the assistance provided in this chapter by submitting annually to the Department its proposed performance contract for the next fiscal year together with the recommendations of the behavioral health authority's board of directors and the approval by formal vote of the governing body of the political subdivision that established it. The behavioral health authority shall make its proposed performance contract available for public review and solicit public comments for a period of thirty days prior to submitting it for the recommendations of the behavioral health authority's board of directors. To avoid disruptions in service continuity, the Department may provide up to five semi-monthly payments of state-controlled funds to allow sufficient time to complete public review, public comment, negotiation and approval of the performance contract. If the governing body of each political subdivision does not approve the proposed performance contract by September 15 of each year, the performance contract shall be deemed approved.*

C. *The performance contract shall (i) delineate the responsibilities of the Department and the behavioral health authority; (ii) specify conditions that must be met for the receipt of state-controlled funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) beginning on July 1, 2000, contain specific consumer, provider performance, consumer satisfaction and consumer and family member participation and involvement measures, and state facility bed utilization targets that have been negotiated with the behavioral health authority; (v) establish an enforcement mechanism, including notice and an appeal process, should the behavioral health authority fail to comply with any provisions of the contract, including provisions for remediation, the withholding of funds, methods of repayment of funds, and for the Department to exercise the provisions of subsection E hereof; and (vi) include reporting requirements and revenue, cost, service, and consumer information displayed in a consistent, comparable format determined by the Department.*

D. *No behavioral health authority shall be eligible to receive state-controlled funds for mental health, mental retardation or substance abuse services after September 15 of each year unless (i) its performance contract has been approved by the governing body of the political subdivision that established it and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual consumer data and information, notwithstanding § 37.1-84.1 or any regulations promulgated thereunder, to the Department in the format prescribed by the Department; and (iii) beginning on July 1, 2000, it uses standardized cost accounting and financial management systems approved by the Department.*

E. *If, after unsuccessful use of the remediation process described in the performance contract, a behavioral health authority remains in substantial noncompliance with its performance contract with the Department, the Department may, after affording the authority an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the contract. Using the state-controlled resources associated with that contract, the Department, after consulting with the governing body of the political subdivision that established the behavioral health authority, may negotiate a performance contract with an operating board, an administrative policy board or a local government department with a policy-advisory board or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.*

§ 37.1-250. *Transfer of facilities and assets.*

The governing body of the ~~locality~~ political subdivision that established the authority 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 ~~locality~~, city or county on such terms and conditions ~~which~~ that 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 ~~locality~~ political subdivision that established it.

§ 37.1-251. *Local appropriations.*

The ~~locality~~ city or county that established the authority is authorized to make appropriations and to provide funds for the operation of the authority and to further its purposes. Such appropriations for the authority shall be subject to the same requirements for operating boards, administrative policy boards and local government departments with policy-advisory boards as set forth in § 37.1-199.

§ 37.1-252. *Proceedings for dissolution.*

Whenever it appears to the board of directors of a behavioral health authority that the need for such authority in the ~~locality~~ city or county 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 ~~locality~~ city or county after giving to the ~~locality~~ city or county thirty ninety 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 ~~locality~~ *city or county* 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. *In order to be approved by the court, the court must find that this plan describes specifically how the city or county that established the authority will fulfill the same duties and responsibilities required for community services boards under §§ 37.1-194 through 37.1-202.1, and how the city or county will ensure continuity of care for consumers who are receiving services from the authority.*

§ 37.1-253. When powers and duties cease to exist.

If the court shall enter an order, as provided in § 37.1-252, that the need for such *behavioral health* authority no longer exists, then, except for the winding up of its affairs in accordance with the plan approved by the court, ~~its~~ *such authority's* authorities, powers and duties to transact business or to function shall cease to exist as of that date set forth in the order of the court.