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HOUSE BILL NO. 515

Offered January 10, 2024

Prefiled January 8, 2024

A BILL to amend and reenact § 37.2-837 of the Code of Virginia, relating to discharge of individuals from state hospitals or training centers.

 Patron—Hope

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:**1. That § 37.2-837 of the Code of Virginia is amended and reenacted as follows:****§ 37.2-837. Discharge from state hospitals or training centers, conditional release, and trial or home visits for individuals.**

A. Except for an individual receiving services in a state hospital who is held upon an order of a court for a criminal proceeding, the director of a state hospital or training center may discharge, after the preparation of a discharge plan:

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

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

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

For all individuals discharged, the discharge plan shall be formulated in accordance with the provisions of § 37.2-505 by the community services board or behavioral health authority that serves the city or county where the individual resided prior to admission or by the board or authority that serves the city or county where the individual or his legally authorized representative on his behalf chooses to reside immediately following the discharge. The discharge plan shall be contained in a uniform discharge document developed by the Department and used by all state hospitals, training centers, and community services boards or behavioral health authorities, and shall identify (i) the services, including mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will require upon discharge into the community and (ii) the public or private agencies that have agreed to provide these services. *After an individual's treatment team determines that the individual is ready for discharge, the Commissioner has the authority to discharge the individual, with an appropriate plan, after 15 days over the objection of the community services board or guardian.* If the individual will be housed in an assisted living facility, as defined in § 63.2-100, the discharge plan shall identify the facility, document its appropriateness for housing and capacity to care for the individual, contain evidence of the facility's agreement to admit and care for the individual, and describe how the community services board or behavioral health authority will monitor the individual's care in the facility. Prior to discharging an individual pursuant to subdivision A 1 or 2 who has not executed an advance directive, the director of a state hospital or his designee shall give to the individual a written explanation of the procedures for executing an advance directive in accordance with the Health Care Decisions Act (§ 54.1-2981 et seq.) and an advance directive form, which may be the form set forth in § 54.1-2984.

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

C. Any individual who is discharged pursuant to subdivision A 2 shall, if necessary for his welfare, be received and cared for by the appropriate local department of social services. The provision of public assistance or social services to the individual shall be the responsibility of the appropriate local department of social services as determined by regulations adopted by the State Board of Social

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59 Services. Expenses incurred for the provision of public assistance to the individual who is receiving
60 24-hour care while in an assisted living facility licensed pursuant to Chapters 17 (§ 63.2-1700 et seq.)
61 and 18 (§ 63.2-1800 et seq.) of Title 63.2 shall be the responsibility of the appropriate local department
62 of social services of the county or city in which the individual resided at the time of admission.
63 **2. That the Department of Behavioral Health and Developmental Services shall promulgate**
64 **regulations providing for an expedited discharge process for persons in state hospitals or training**
65 **centers that are identified as needing intellectual or developmental disability services.**
66 **3. That the Department of Behavioral Health and Developmental Services shall develop and**
67 **implement a statewide training program for state hospital employees and community services**
68 **board liaisons designed to improve discharge planning outcomes.**