

# VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

## CHAPTER 764

*An Act to amend and reenact §§ 32.1-276.3, 32.1-276.8 and 37.1-98.2 of the Code of Virginia and to amend and reenact the fifth enactment of Chapter 902 of the Acts of Assembly of 1996, relating to the disclosure of information by community services boards and state facilities.*

[S 1054]

Approved March 28, 1999

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

**1. That §§ 32.1-276.3, 32.1-276.8 and 37.1-98.2 of the Code of Virginia are amended and reenacted as follows:**

§ 32.1-276.3. (Effective until July 1, 1999) Definitions.

As used in this chapter:

"Board" means the Board of Health.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care provider" means (i) a general hospital, ordinary hospital, outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1; (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1; (iii) *a hospital operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services*; (iv) a hospital operated by the University of Virginia or the Medical College of Virginia Hospitals Authority; ~~(iv)~~ (v) any person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; or ~~(v)~~ (vi) any person licensed to furnish health care policies or plans pursuant to Chapter 34 (§ 38.2-3400 et seq.), Chapter 42 (§ 38.2-4200), or Chapter 43 (§ 38.2-4300) of Title 38.2. In no event shall such term be construed to include continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 or any nursing care facility of a religious body which depends upon prayer alone for healing.

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 ~~(§ 32.1-123 et seq.)~~ of Title 32.1, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1, *a hospital operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the care and treatment of the mentally ill*, or a hospital operated by the University of Virginia or the Medical College of Virginia Hospitals Authority.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this chapter.

"System" means the Virginia Patient Level Data System.

§ 32.1-276.8. (Effective until July 1, 1999) Fees for processing, verification, and dissemination of data.

A. The Board shall prescribe a reasonable fee, not to exceed one dollar per discharge, for each health care provider submitting patient level data pursuant to this chapter to cover the costs of the reasonable expenses in processing and verifying such data. The Board shall also prescribe a reasonable fee for each affected health care provider to cover the costs of the reasonable expenses of establishing and administering the methodology developed pursuant to § 32.1-276.7. The payment of such fees shall be at such time as the Board designates. The Board may assess a late charge on any fees paid after their due date.

The Board shall (i) maintain records of its activities; (ii) collect and account for all fees and deposit the moneys so collected into a special fund from which the expenses attributed to this chapter shall be paid; and (iii) enforce all regulations promulgated by it pursuant to this chapter.

B. The nonprofit organization providing services pursuant to an agreement or contract as provided in § 32.1-276.4 shall be authorized to charge and collect the fees prescribed by the Board in subsection A of this section when the data are provided directly to the nonprofit organization. Such fees shall not exceed the amount authorized by the Board as provided in subsection A of this section. The nonprofit organization, at its discretion, may grant a reduction or waiver of the patient level data submission fees upon a determination by the nonprofit organization that the health care provider has submitted processed, verified data.

C. State agencies shall not be assessed fees for the submission of patient level data required by

subsection C of § 32.1-276.6. Individual employers, insurers, and other organizations may voluntarily provide the nonprofit organization with outpatient data for processing, storage, and comparative analysis and shall be subject to fees negotiated with and charged by the nonprofit organization for services provided.

D. The nonprofit organization providing services pursuant to an agreement or contract with the Commissioner of Health shall be authorized to charge and collect reasonable fees for the dissemination of patient level data; however, the Commissioner of Health and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall be entitled to receive publicly available data from the nonprofit organization at no charge.

§ 37.1-98.2. Exchange of information between community services boards and state facilities.

Community services boards and state facilities may, when the individual has refused consent, exchange the information required to prepare and implement a comprehensive individualized treatment plan including a discharge plan as specified in § 37.1-98 A. This section shall apply to all active clients of the community services boards and patients and residents in facilities.

When a patient who is deemed suitable for discharge pursuant to § 37.1-98 A or his guardian or committee refuses to authorize the release of that information which is required to formulate and implement a predischarge plan as specified in § 37.1-98 A, then the community services board may release without consent to those service providers and human service agencies identified in the predischarge plan only such information as is needed to secure those services specified in the plan. The release of any other client information to any agency or individual not affiliated directly or by contract with community services boards or facilities shall be subject to all rules and regulations promulgated by the Board or by agencies of the United States government which govern confidentiality of patient information.

~~It is the intent of this law that any information exchanged about a patient or resident be used only to facilitate treatment, training or community placement and that it shall be protected from disclosure for any other purpose. Notwithstanding the above, the Department and state facilities may exchange client-specific information for former and active clients with the community services boards for the purpose of implementation of the Department's Performance and Outcome Measurement System, or such other system that the Department might develop, to monitor the delivery, outcome and effectiveness of services; however, no publicly available report or information produced or generated by such system shall reveal the identity of any patient. Publicly available information shall be designed to prevent persons from being able to gain access to combinations of patient characteristic data elements that reasonably could be expected to reveal the identity of any patient. In order to collect unduplicated information, the Department, subject to all rules and regulations promulgated by the Board or by agencies of the United States government which govern confidentiality of patient information, may require that the individuals receiving services disclose or furnish their social security numbers. The state facilities shall also report such patient-level data and financial data as may be required to the Virginia Patient Level Data system in accordance with Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1.~~

**2. That the fifth enactment of Chapter 902 of the Acts of Assembly of 1996 is amended and reenacted as follows:**

5. That Chapter 7.2 of Title 32.1 and subsection K of § 11-45 of the Code of Virginia shall expire on July 1, 1999 2003.