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## SENATE BILL NO. 1054

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health  
on January 28, 1999)

(Patron Prior to Substitute—Senator Martin)

A *BILL 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.*

**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.

60 C. State agencies shall not be assessed fees for the submission of patient level data required by  
61 subsection C of § 32.1-276.6. Individual employers, insurers, and other organizations may voluntarily  
62 provide the nonprofit organization with outpatient data for processing, storage, and comparative analysis  
63 and shall be subject to fees negotiated with and charged by the nonprofit organization for services  
64 provided.

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

70 § 37.1-98.2. Exchange of information between community services boards and state facilities.

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

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

84 It is the intent of this law that any information exchanged about a patient or resident be used only to  
85 facilitate treatment, training or community placement and that it shall be protected from disclosure for  
86 any other purpose. Notwithstanding the above, the Department and state facilities may exchange client  
87 specific information for former and active clients with the community services boards for the purpose of  
88 implementation of the Department's Performance and Outcome Measurement System, or such other  
89 system that the Department might develop, to monitor the delivery, outcome and effectiveness of  
90 services; however, no publicly available report or information produced or generated by such system  
91 shall reveal the identity of any patient. Publicly available information shall be designed to prevent  
92 persons from being able to gain access to combinations of patient characteristic data elements that  
93 reasonably could be expected to reveal the identity of any patient. In order to collect unduplicated  
94 information, the Department may require that the individuals receiving services disclose or furnish their  
95 social security numbers. The state facilities shall also report such patient-level data and financial data  
96 as may be required to the Virginia Patient Level Data system in accordance with Chapter 7.2  
97 (§ 32.1-276.2 et seq.) of Title 32.1.

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

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