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SENATE BILL NO. 479

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 37.2-308, 37.2-504, and 37.2-605 of the Code of Virginia and to repeal Article 2 (§ 37.2-315) of Chapter 3 of Title 37.2 and §§ 63.2-1400 and 63.2-1500 of the Code of Virginia, relating to health services; obsolete provisions.

Patron—McClellan

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.2-308, 37.2-504, and 37.2-605 of the Code of Virginia are amended and reenacted as follows:

§ 37.2-308. Data reporting on children and adolescents.

A. The Department shall collect and compile the following data:

1. The total number of licensed and staffed inpatient acute care psychiatric beds for children under the age of 14 and adolescents ages 14 through 17; and

2. The total number of licensed and staffed residential treatment beds for children under the age of 14 and adolescents ages 14 through 17 in residential facilities licensed pursuant to this title, excluding group homes.

B. The Department shall collect and compile data obtained from the community policy and management team pursuant to subdivision 16 of § 2.2-5206 and each community services board or behavioral health authority pursuant to § 37.2-507 and subdivision 17 of § 37.2-605. The Department shall ensure that the data reported is not duplicative.

C. The Department shall report this data on a quarterly basis to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations and to the Virginia Commission on Youth.

§ 37.2-504. Community services boards; local government departments; powers and duties.

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

1. Review and evaluate public and private community mental health, developmental, and substance abuse services and facilities that receive funds from it and advise the governing body of each city or county that established it as to its findings.

2. Pursuant to § 37.2-508, submit to the governing body of each city or county that established it a performance contract for community mental health, developmental, and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated for this purpose, provide services authorized under the performance contract.

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

5. In the case of operating and administrative policy boards, make policies or regulations concerning the delivery of services and operation of facilities under its direction or supervision, subject to applicable policies and regulations adopted by the Board.

6. In the case of an operating board, appoint an executive director of community mental health, developmental, and substance abuse services, who meets the minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by the operating board within the amounts made available by appropriation for this purpose. 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 an operating board, the Department shall approve the selection of the executive director for adherence to minimum qualifications established by the Department and the salary range of the executive director. In the case of an administrative policy board, the board shall participate with local government in the appointment and annual performance evaluation of an executive director of community mental health, developmental, and substance abuse services, who meets the 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 administrative policy board within the amounts made available by appropriation for this purpose. 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

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SB479

59 participate in the selection and the annual performance evaluation of the executive director, who meets
60 the minimum qualifications established by the Department. The compensation of the executive director
61 shall be fixed by local government in consultation with the policy-advisory board within the amounts
62 made available by appropriation for this purpose.

63 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
64 jurisdiction or supervision of the board and establish procedures for the collection of those fees. All fees
65 collected shall be included in the performance contract submitted to the local governing body or bodies
66 pursuant to subdivision 2 and § 37.2-508 and shall be used only for community mental health,
67 developmental, and substance abuse services purposes. Every board shall institute a reimbursement
68 system to maximize the collection of fees from individuals receiving services under its jurisdiction or
69 supervision, consistent with the provisions of § 37.2-511, and from responsible third party payors.
70 Boards shall not attempt to bill or collect fees for time spent participating in commitment hearings for
71 involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

72 8. Accept or refuse gifts, donations, bequests, or grants of money or property from any source and
73 utilize them as authorized by the governing body of each city or county that established it.

74 9. Seek and accept funds through federal grants. In accepting federal grants, the board shall not bind
75 the governing body of any city or county that established it to any expenditures or conditions of
76 acceptance without the prior approval of the governing body.

77 10. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in
78 accordance with such regulations as may be established by the governing body of each city or county
79 that established it.

80 11. Apply for and accept loans as authorized by the governing body of each city or county that
81 established it.

82 12. Develop joint written agreements, consistent with policies adopted by the Board, with local
83 school divisions; health departments; boards of social services; housing agencies, where they exist;
84 courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and
85 Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All
86 participating agencies shall develop and implement the agreements and shall review the agreements
87 annually.

88 13. Develop and submit to the Department the necessary information for the preparation of the
89 Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.

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

93 14. Institute, singly or in combination with other community services boards or behavioral health
94 authorities, a dispute resolution mechanism that is approved by the Department and enables individuals
95 receiving services and family members of individuals receiving services to resolve concerns, issues, or
96 disagreements about services without adversely affecting their access to or receipt of appropriate types
97 and amounts of current or future services from the community services board.

98 15. Notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, release
99 data and information about each individual receiving services to the Department so long as the
100 Department implements procedures to protect the confidentiality of that data and information.

101 16. In the case of administrative policy boards and local government departments with
102 policy-advisory boards, carry out other duties and responsibilities as assigned by the governing body of
103 each city or county that established it.

104 17. In the case of an operating board, have authority, notwithstanding any provision of law to the
105 contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent,
106 when authorized to do so by the governing body of each city or county that established it.

107 By local agreement between the administrative policy board and the governing body of the city or
108 county that established it, additional responsibilities may be carried out by the local government,
109 including personnel or financial management. In the case of an administrative policy board established
110 by more than one city or county, the cities and counties shall designate which local government shall
111 assume these responsibilities.

112 B. Every policy-advisory community services board, with staff support provided by the director of
113 the local government department, shall have the following powers and duties:

114 1. Advise the local government regarding policies or regulations for the delivery of services and
115 operation of facilities by the local government department, subject to applicable policies and regulations
116 adopted by the Board.

117 2. Review and evaluate the operations of the local government department and advise the local
118 governing body of each city or county that established it as to its findings.

119 3. Review the community mental health, developmental, and substance abuse services provided by
120 the local government department and advise the local governing body of each city or county that

established it as to its findings.

4. Review and comment on the performance contract, *and* performance reports; *and* Comprehensive State Plan information developed by the local government department. The board's comments shall be attached to the performance contract, *and* performance reports; *and* Comprehensive State Plan information prior to their submission to the local governing body of each city or county 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 individuals receiving services and family members of individuals receiving services in policy formulation and services planning, delivery, and 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 city or county that established it.

§ 37.2-605. 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 services to those residents and persons. An authority shall have the following powers and duties:

1. Review and evaluate public and private community mental health, developmental, and substance abuse services and facilities that receive funds from the authority and advise the governing body of the city or county that established it as to its findings.

2. Pursuant to § 37.2-608, submit to the governing body of the city or county that established the authority an annual performance contract for community mental health, developmental, and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated for this purpose, provide services authorized under the performance contract.

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

5. Make and enter into all other contracts or agreements as the authority may determine that 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, any subdivision or instrumentality of the Commonwealth, behavioral health providers, insurers, and managed care or health care networks on such terms and conditions as the authority may approve.

6. Make policies or regulations concerning the delivery of services and operation of facilities under its direction or supervision, subject to applicable policies and regulations adopted by the Board.

7. Appoint a chief executive officer of the behavioral health authority, who meets the minimum qualifications established by the Department, and prescribe his duties. The compensation of the chief executive officer shall be fixed by the authority within the amounts made available by appropriation for this purpose. 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 the selection of the chief executive officer for adherence to minimum qualifications established by the Department and the salary range of the chief executive officer.

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

9. 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 those fees. All fees collected shall be included in the performance contract submitted to the local governing body pursuant to subdivision 2 and § 37.2-608 and shall be used only for community mental health, developmental, and substance abuse services purposes. Every authority shall institute a reimbursement system to maximize the collection of fees from individuals receiving services under the jurisdiction or supervision of the authority, consistent with the provisions of § 37.2-612, and from responsible third party payors. Authorities shall not attempt to bill or collect fees for time spent participating in commitment hearings for involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

10. Accept or refuse gifts, donations, bequests, or grants of money or property or other assistance from the federal government, the Commonwealth, any municipality thereof, or any other sources, public or private; utilize them to carry out any of its purposes; and enter into any agreement or contract regarding or relating to the acceptance, use, or repayment of any such grant or assistance.

11. Seek and accept funds through federal grants. In accepting federal grants, the authority shall not bind the governing body of the city or county that established it to any expenditures or conditions of acceptance without the prior approval of that governing body.

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

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

14. Develop joint written agreements, consistent with policies adopted by the Board, with local school divisions; health departments; local boards of social services; housing agencies, where they exist; courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All participating agencies shall develop and implement the agreements and shall review the agreements annually.

15. Develop and submit to the Department the necessary information for the preparation of the Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.

16. Take all necessary and appropriate actions to maximize the involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and service planning, delivery, and evaluation.

17. Institute, singly or in combination with community services boards or other behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables individuals receiving services and family members of individuals receiving services 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.

18. Notwithstanding the provisions of § 37.2-400 and regulations adopted thereunder, release data and information about each individual receiving services to the Department, so long as the Department implements procedures to protect the confidentiality of that data and information. Every authority shall submit data on children and youth in the same manner as community services boards, as set forth in § 37.2-507.

19. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia pertaining to community services boards.

20. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities in carrying out any activities authorized by this chapter.

21. 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.

22. 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.

23. Participate in joint ventures with persons, 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.

24. Conduct or engage in any lawful business, activity, effort, or project that is necessary or convenient for the purposes of the authority or for the exercise of any of its powers.

25. As a public instrumentality, establish and operate 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 governmental entities.

26. Carry out capital improvements and bonding through existing economic or industrial development authorities.

27. 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 to do under § 51.1-801.

28. Provide an annual report to the Department of the authority's activities.

29. Ensure a continuation of all services for individuals during any transition period.

2. That Article 2 (§ 37.2-315) of Chapter 3 of Title 37.2 and §§ 63.2-1400 and 63.2-1500 of the Code of Virginia are repealed.