

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 37.2-400 of the Code of Virginia, relating to Department of Behavioral*  
 3 *Health and Developmental Services; individuals receiving services; right to send and receive mail.*

4 [H 1304]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 37.2-400 of the Code of Virginia is amended and reenacted as follows:**8 **§ 37.2-400. Rights of individuals receiving services.**

9 A. Each individual receiving services in a hospital, training center, other facility, or program operated,  
 10 funded, or licensed by the Department, excluding those operated by the Department of Corrections, shall be  
 11 assured his legal rights and care consistent with basic human dignity insofar as it is within the reasonable  
 12 capabilities and limitations of the Department, funded program, or licensee and is consistent with sound  
 13 therapeutic treatment. Each individual admitted to a hospital, training center, other facility, or program  
 14 operated, funded, or licensed by the Department shall:

- 15 1. Retain his legal rights as provided by state and federal law;
- 16 2. Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable  
 17 of understanding;
- 18 3. Be treated with dignity as a human being and be free from abuse or neglect;
- 19 4. Not be the subject of experimental or investigational research without his prior written and informed  
 20 consent or that of his legally authorized representative;
- 21 5. Be afforded an opportunity to have access to consultation with a private physician at his own expense  
 22 and, in the case of hazardous treatment or irreversible surgical procedures, have, upon request, an impartial  
 23 review prior to implementation, except in case of emergency procedures required for the preservation of his  
 24 health;

25 6. Be treated under the least restrictive conditions consistent with his condition and not be subjected to  
 26 unnecessary physical restraint and isolation;

27 7. Be allowed to send and receive sealed letter mail. *State facilities operated by the Department may*  
 28 *process letter mail for electronic delivery in accordance with approved policies and procedures and*  
 29 *applicable human rights regulations, provided that nothing in this subdivision shall be construed to authorize*  
 30 *review of the contents of mail except as otherwise permitted under such regulations;*

31 8. Have access to his medical and clinical treatment, training, or habilitation records and be assured of  
 32 their confidentiality but, notwithstanding other provisions of law, this right shall be limited to access  
 33 consistent with his condition and sound therapeutic treatment;

34 9. Have the right to an impartial review of violations of the rights assured under this section and the right  
 35 of access to legal counsel;

36 10. Be afforded appropriate opportunities, consistent with the individual's capabilities and capacity, to  
 37 participate in the development and implementation of his individualized services plan; and

38 11. Be afforded the opportunity to have a person of his choice notified of his general condition, location,  
 39 and transfer to another facility.

40 The Board shall adopt regulations to implement the provisions of this subsection after due notice and  
 41 public hearing, as provided for in the Administrative Process Act (§ 2.2-4000 et seq.).

42 B. The Board shall adopt regulations delineating the rights of individuals receiving services with respect  
 43 to nutritionally adequate diet; safe and sanitary housing; participation in nontherapeutic labor; attendance or  
 44 nonattendance at religious services; participation in treatment decision-making, including due process  
 45 procedures to be followed when an individual may be unable to make an informed decision; notification of a  
 46 person of his choice regarding his general condition, location, and transfer to another facility; use of  
 47 telephones; suitable clothing; possession of money and valuables; and related matters.

48 C. The human rights regulations shall be applicable to all hospitals, training centers, other facilities, and  
 49 programs operated, funded, or licensed by the Department; these hospitals, training centers, other facilities, or  
 50 programs may be classified as to population served, size, type of services, or other reasonable classification.

51 D. The Board shall adopt regulations requiring public and private facilities and programs licensed or  
 52 funded by the Department to provide nonprivileged information and statistical data to the Department related  
 53 to (i) the results of investigations of abuse or neglect, (ii) deaths and serious injuries, (iii) instances of  
 54 seclusion and restraint, including the duration, type, and rationale for use per individual receiving services,  
 55 and (iv) findings by state or local human rights committees or the Office of Human Rights in the Department  
 56 of human rights violations, abuse, or neglect. The Board's regulations shall address the procedures for

**57** collecting, compiling, encrypting, and releasing the data. This information and statistical data shall be made  
**58** available to the public in a format from which all information identifying a provider or an individual  
**59** receiving services has been removed. The Board's regulations shall specifically exclude all proceedings,  
**60** minutes, records, and reports of any committee or nonprofit entity providing a centralized credentialing  
**61** service that are identified as privileged pursuant to § 8.01-581.17.