COMMONWEALTH of VIRGINIA

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November 1, 2025

To: The Honorable Glenn Youngkin, Governor of Virginia
The Honorable Ghazala F. Hashmi, Chair, Senate Education and Health Committee
The Honorable Mark D. Sickles, Chair, House Health and Human Services Committee
The Honorable R. Creigh Deeds, Chair, Behavioral Health Commission

From: Nelson Smith, Commissioner, Department of Behavioral Health Developmental Services

Cc: Janet V. Kelly, Secretary, Health and Human Resources

RE: Chapter 290, 2024 Virginia Acts of Assembly

Chapter 290 of the 2024 Virginia Acts of Assembly states:

*§ 1. That the Department of Behavioral Health and Developmental Services (the Department) shall develop and implement a pilot program at one state hospital to allow the director of the state hospital the option to discharge, after the preparation of a discharge plan and over the objection of the community services board, any individual receiving services in a state hospital (i) who is not held upon an order of a court for a criminal proceeding; (ii) who in the director's judgment is recovered, does not have a mental illness, or is impaired or not recovered but whose discharge will not be detrimental to the public welfare or injurious to the individual; (iii) who is not a proper case for treatment within the purview of Chapter 8 (§ **37.2-800** et seq.) of Title 37.2 of the Code of Virginia; and (iv) whose treatment team determines that the individual is ready for discharge but who has not been discharged within 15 days of such determination by the individual's treatment team. For all individuals discharged, the discharge plan shall be developed by the state hospital and shall be implemented 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 director may grant a trial or home visit to an individual receiving services in accordance with regulations adopted by the State Board of Behavioral Health and Developmental Services. The state facility granting a trial or home visit to an individual shall not be liable for such individual's 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. The Department shall submit a report on its findings and recommendations no later than November 1, 2025, to the Governor, the Chairman of the House Committee on Health and Human Services, the Senate Committee on Education and Health, and the Behavioral Health Commission.*

In accordance with this item, please find enclosed the report for Chapter 290. Staff are available should you wish to discuss this request.

Introduction

Chapter 290 of the 2024 Virginia Acts of Assembly directed the Department of Behavioral Health and Developmental Services (DBHDS) to develop and implement a pilot program at one state hospital. The purpose was to test whether hospital directors could, under limited circumstances, discharge individuals who were clinically ready for discharge despite objection or lack of engagement from the local community services board (CSB).

The General Assembly's intent was to address a barrier to state hospital discharge in Virginia: lack of CSB engagement in timely discharge planning. Under current law, CSBs are the designated discharge planning entity for state hospitals. This role gives CSBs significant authority in the process, but it also creates risk that individuals remain hospitalized longer than necessary when CSBs delay, object, or fail to meaningfully engage in discharge planning.

Legislative Framework

The pilot authorized hospital directors to discharge when specific conditions were met:

1. The individual was not held under a criminal court order.
2. The hospital director judged the individual to be recovered, not to have a mental illness, or not recovered but discharge would not endanger the public or the individual.
3. The individual was no longer an appropriate case for treatment under Chapter 8 (§37.2-800 et seq.) of Title 37.2 of the Code of Virginia.
4. The treatment team determined the individual was ready for discharge, and 15 days had passed without discharge.

For such cases, the hospital would develop the discharge plan, to be implemented by the CSB serving the locality where the individual resided prior to admission or intended to reside post-discharge. Regulations also permitted trial or home visits, with costs falling to the caregiver, conservator, or local department of social services, not the state facility.

Process and Implementation

DBHDS implemented the pilot at Catawba Hospital between July 1, 2024, and June 30, 2025. The hospital continued to follow established discharge protocols, requiring consistent communication and collaboration between hospital staff and Community Services Boards (CSBs). From the point of admission, CSBs were engaged in information-sharing and invited to participate in monthly census reviews, treatment team meetings, and weekly notifications regarding discharge readiness.

Although the legislation empowered hospital directors to discharge individuals over CSB objection after 15 days, no such discharges occurred during the pilot year. In practice, the statutory authority served more as leverage. Hospital social workers typically secured at least minimal CSB engagement by the fifteenth day, avoiding a formal objection and meeting the letter of the pilot requirements. However, this did not resolve the broader challenges of timeliness and responsiveness in discharge planning.

The pilot also revealed several persistent barriers that complicated discharge planning and extended hospital stays:

- **Limited regional familiarity –** CSBs outside the hospital's catchment area often lacked knowledge of local resources, leading to slow or incomplete engagement.
- **Delayed response to notifications –** In multiple cases, CSB liaisons did not respond to "ready for discharge" notifications until hospital staff escalated the matter to CSB behavioral health directors or DBHDS community transition specialists.
- **Resource burden on hospital staff –** Repeated escalations consumed significant staff time, limiting capacity for discharge planning with other patients.
- **Impact on statewide flow –** Delays in discharge slowed patient throughput, directly contributing to longer waitlists across Virginia's state hospital system.

Findings

1. **Legislative authority was rarely invoked.** The threat of a director-led discharge appeared to prompt eventual CSB engagement, even if minimal or delayed.
2. **Systemic issues with CSB responsiveness remain unresolved.** Engagement often required escalation, and timeliness varied significantly across localities.
3. **Hospital burden increased.** The administrative time required to secure CSB participation took resources away from other patients and hospital operations.
4. **Regional familiarity matters.** Out-of-region CSBs were consistently more difficult to engage due to lack of knowledge about available local supports.

Recommendations

Based on the pilot, DBHDS recommends the following steps:

1. **Clarify statutory expectations for CSB timeliness.** Establish defined timelines for CSB response to hospital discharge notifications, with accountability mechanisms if deadlines are not met.
2. **Strengthen escalation protocols.** Require CSBs to designate supervisory contacts for timely resolution when frontline staff fail to respond.
3. **Promote regional discharge collaboration.** Explore regional partnerships or shared agreements to support out-of-region discharges, particularly when patients wish to reside outside their hospital's catchment area.
4. **Maintain director authority as a backstop.** While rarely exercised, the authority for hospital directors to act remains a safeguard against unnecessary institutionalization.
5. **Invest in transition supports.** Increased staffing for DBHDS community transition specialists may reduce delays caused by CSB disengagement and improve patient flow.

Conclusion

The Chapter 290 pilot at Catawba Hospital highlighted the persistent challenge of CSB engagement in hospital discharge planning. While the legislation's authority was not directly exercised, its presence improved engagement by encouraging CSBs to respond before the 15-day threshold. However, systemic delays remain, particularly with out-of-region CSBs, and hospital staff expend significant effort to secure cooperation. Addressing these barriers is critical to reducing the extraordinary barriers to discharge list, improving patient flow, and decreasing statewide wait times for hospital admission.

DBHDS remains committed to working with CSBs, hospitals, and state leadership to improve discharge timeliness while ensuring safe and appropriate community placements.