

# 2017 Virginia Health Care Legislative Update

The 2017 Virginia General Assembly considered many health care-related bills during the course of the most recent session. Here are some of the more notable ones that became law July 1, 2017, unless otherwise noted.

## Services Provided by CSBs and Behavioral Health Authorities

This legislation adds to the core of CSB services same-day mental health screening services and outpatient primary care screening and monitoring services. Some provisions will not become effective until July 1, 2019. (HB1549/SB1005)

## Reporting Disabilities of Drivers

For situations in which a health care provider reports an individual's disability to the DMV, this legislation limits the potential civil liability or an alleged violation of the practitioner-patient privilege to those instances in which the health care provider acts in bad faith or with malicious intent. (HB1514/SB1024)

## Medicaid for Incarcerated Individuals

This requires the Department of Medical Assistance Services to form a work group aimed at implementing procedures to improve eligible incarcerated individuals' access to Medicaid. The Department's report and recommendation is due Nov. 30, 2017. (HB2183)

## Telemedicine and Prescriptions

This legislation allows for practitioners to prescribe Schedule II through VI controlled substances to patients, even if such practitioner-patient relationship is established through telemedicine services, so long as the prescribing of such controlled substances is in compliance with federal requirements for the practice of telemedicine. (HB1767/SB1009)

## Medicaid Fraud

This legislation requires the Department of Medical Assistance Services to institute a program that will use analytics, such as predictive modeling and profiling, to attempt to prevent payments on claims that are potentially fraudulent until such claims can be validated. (HB2417)

## Durable Do Not Resuscitate Orders

This revises the statute regarding durable do not resuscitate orders to provide for the enforcement and validity of such orders or other orders regarding life-prolonging procedures properly executed in another state. (HB2153)

## Direct Primary Care Agreements

This legislation authorizes direct agreements between a patient, or his or her representative or employer, and a health care provider, for primary care services in exchange for a monthly fee. The law clarifies that direct primary care agreements are not a type of health insurance or an HMO and provides for required disclosures and disclaimers to patients. This law does not apply to contracts entered into prior to March 1, 2017. (HB2053/SB800)



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### **Calculation of Cost-Sharing Provisions**

This legislation requires an insurer, health services plan, or HMO to calculate a pre-established cost-sharing amount to be payable by the insured for services for which there is no amount actually paid or payable to the provider by the insurer, health services plan, or HMO. *(HB2037)*

### **Barrier Crimes**

This amends the list of crimes considered barriers to employment in certain health care sectors, including long-term care and home care, to include additional crimes. *(SB1008)*

### **Transportation for Emergency Custody and Involuntary Admissions**

This legislation directs several agencies to work together to develop a model for transportation, other than by law enforcement, for individuals involved in the emergency custody process or the involuntary admission process. The model is to be completed by Oct. 1, 2017. *(HB1426/SB1221)*

### **Preadmission Screening Requirements for CSBs**

This legislation expands on the statutory duties of community services boards that serve a county or city that is a participant in the regional jail to include an obligation to review any Memoranda of Understanding between any CSBs that serve the regional jail to ensure that the responsibilities of each CSB in regard to this population are set forth in the Memorandum of Understanding and are proportionate amongst the various CSBs. *(HB2331/SB0975)*

### **Inpatient Psychiatric Services**

This legislation requires the Board of Health to implement regulations requiring hospitals that provide inpatient psychiatric services to establish a protocol for direct verbal communication between the on-call physician and the referring physician in situations involving the refusal to admit a medically stable patient referred to the psychiatric unit. *(HB1777)*

### **Rights of Family Members in Nursing Homes**

This requires nursing facilities to allow family members of residents or other resident representatives to participate in meetings in the facility with families or representatives of other residents. *(HB2072)*

### **Charity Care**

This legislation defines “charity care” in terms of certificates of public need and amends the requirements for the regulations applicable to the reporting of data by health care providers to account for the provision of charity care. Some of the provisions will not be effective until July 1, 2019. *(HB2101)*

### **Emergency Department Care Coordination Program**

This legislation establishes the Emergency Department Care Coordination Program to provide for a single, statewide program to connect Virginia’s hospital emergency departments to allow for real-time collaboration among the hospital emergency departments. This will not become effective unless and until Virginia receives federal HITECH funds to assist with implementation. *(HB2209/SB1561)*

### **Advance Directives**

This legislation authorizes the enforcement of an advance directive granting an agent the authority to consent to an individual’s admission to a mental health facility, after a determination that the individual is incapable of consenting or choosing not to consent to admission is made by either the attending physician, a psychiatrist or licensed clinical psychologist, a licensed psychiatric nurse practitioner, a licensed clinical social worker, or a designee of the local CSB. The legislation also amends the list of professionals permitted to attest in writing at the time an advance directive is made as to the capability of an individual to make the decision to execute the advance directive to include a licensed physician assistant, a licensed nurse practitioner, a licensed professional counselor, and a licensed clinical social worker. *(HB1548/SB1511)*