



COMMONWEALTH of VIRGINIA

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MEMORANDUM

To: Providers of Residential Crisis Stabilization Units

From: The Office of Licensing, The Office of Human Rights, and The Division of Crisis Services

Date: July 24, 2024

Re: Compliance Requirements for Serving Individuals Under Temporary Detention Orders (TDO)

Purpose:

This memo outlines the regulatory requirements and considerations for Providers of Residential Crisis Stabilization Units (CSUs) intending to serve individuals under a Temporary Detention Order (TDO) status. Compliance with these regulations ensures the safety and well-being of individuals receiving services and adherence to the legal standards set forth by the Code of Virginia.

Regulatory Requirements: Rules and Regulations for licensing Providers and Human Rights Regulations

1. **Preadmission-Screening, Discharge Planning, Involuntary Commitment, and Mandatory Outpatient Treatment Orders:**
 - **12VAC35-105-155(B):**
Providers must implement policies and procedures to comply with §§ 37.2-800 through 37.2-817 of the Code of Virginia. This includes serving individuals through an emergency custody order, TDO, or mandatory outpatient treatment order.
2. **Service Description Requirements:**
 - **12VAC35-105-580(I):**
If the provider plans to admit individuals under a TDO, they must submit a

written plan detailing adequate staffing and security measures to the Department for approval. The plan must ensure that individuals can safely receive services within the unit. Upon approval, a stipulation will be added to the provider's license authorizing them to serve individuals under TDOs.

3. Participation in Decision Making and Consent: Involuntary Admissions

○ **12VAC35-115-70(8)(b)**

When an individual involuntarily admitted under § 37.2-817 of the Code of Virginia has been receiving services for more than 30 days and makes a written request for discharge, the director shall determine whether the individual continues to meet the criteria for involuntary admission. If the director denies the request for discharge, he shall notify the individual in writing of the reasons for denial and of the individual's right to seek relief in the courts. The request and the reasons for denial shall be included in the individual's services record. Anytime the individual meets any of the criteria for discharge set out in § 37.2-837 or 37.2-838 of the Code of Virginia, the director shall take all necessary steps to arrange the individual's discharge.

4. Restrictions on Freedoms of Everyday Life

○ **12VAC35-115-100(B):**

Providers may not limit or restrict an individual's freedom more than is needed to achieve a therapeutic benefit, maintain a safe and orderly environment, or to intervene in an emergency. If a court has ordered the provider to impose a restriction or the restriction is otherwise required by law, the restriction must be documented in the individual's services record.

Considerations for Policy and Procedure Development:

When developing policies and procedures related to the TDO acceptance process, providers should consider the following aspects:

1. Facility Security:

- Ensure that the facility is secured adequately to maintain the safety of individuals under TDO without compromising their participation in therapeutic programming.

2. Staffing Requirements:

- Update the service description and the staffing plan to detail how the facility will be appropriately staffed to manage individuals under TDO. This includes having sufficient and qualified staff to address the specific needs of these individuals and to ensure a safe environment.

3. Environment and Programming:

- Create a secure environment that does not preclude individuals from participating in programming and therapeutic activities.

4. Complaint Procedures:

- Establish clear processes for individuals to make complaints to the court related to the TDO process. This should include accessible avenues for individuals to communicate with assigned attorneys, voice their concerns, and receive timely responses.

5. Early Departure Process:

- Define the process to be implemented should an individual wish to leave the facility prior to the expiration of the TDO. Ensure that this process complies

with legal requirements and prioritizes the individual's safety and well-being. If this process includes the use of restraint and/or seclusion, the provider must have a policy approved by the Office of Human Rights.

Action Required:

Providers intending to serve individuals under TDO status must submit an information modification and a comprehensive plan addressing the above considerations. Providers must ensure that all policies and procedures are in compliance with the specified regulations and submit the plan to the Department for approval. Upon receiving approval, update your service description and operational protocols accordingly.

Please note that **Crisis Receiving Centers** are *not* authorized to accept individuals under TDO status. Individuals who are assessed and meet the criteria for a TDO, and for whom a TDO has been issued, can remain at the CRC until transportation to the next accepting facility is arranged.

Thank you for your attention to these requirements and for your commitment to providing safe and effective services to individuals in crisis.