



# COMMONWEALTH of VIRGINIA

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## MEMORANDUM

Re: Guidance Regarding Individual Choice and Discharge Options

As referenced in a memo that was distributed by Daniel Herr, Deputy Commissioner for Facility Services on September 25, 2019, below is guidance that was developed in consultation with the DBHDS Office of Human Rights. This guidance concerns an individuals' choice as it relates to community based discharge options and continuing inpatient hospitalization.

This guidance is based upon the following primary considerations.

- Human Rights:
  - o It is a violation of an individual's right to remain in the state's most restrictive setting, i.e., state hospital, when a more integrated and less restrictive level of care is available and addresses the individual's risks and treatment needs;
  - o An individual does not have a right for the state to provide multiple alternatives when there is an existing clinically appropriate option currently available ; and
  - o The individual does not have a right to remain in the hospital once a community based option is made available.
  
- Patient Care and Safety: Given the state hospital census crisis, the impact of over-crowding and high case-loads for patient and staff safety, quality of care, and potential for delayed admissions for individuals in the community, state hospitals have an affirmative obligation to provide treatment focused on rapid discharge. An individual in a state hospital does not have the choice of waiting for a "more ideal" community alternative when another clinically appropriate option is available.

### Guidance

Once an individual is clinically ready for discharge, and services and a placement are available to meet their community needs, DBHDS expects that the individual will be discharged to that placement as expeditiously as possible.

If an individual requires funding support through DAP, the CSB and state hospital must first refer the individual to any appropriate DBHDS contracted placement, such as a group home or

assisted living facility. DAP funds for alternative placements will not be available to the individual if existing funded resources are available and appropriate.

When appropriate services and housing have been identified, the individual should promptly be scheduled for discharge. If the individual wishes to make alternative arrangements, the individual must make those arrangements prior to discharge, or make their preferred arrangements from the community setting post discharge. The individual may not delay their discharge for the purpose of putting preferred arrangements into place.