



Virginia Commission on Youth 2025 Legislative Studies and Initiatives

Discharge Planning from Inpatient Treatment to a Public School

(Red indicates changes based on public comment)

Draft Recommendations	Public Comment
Amend the <i>Code of Virginia</i> to share discharge plan information with public school: <u>Recommendation 1:</u> Amend the <i>Code of Virginia</i> §§ 16.1-346.1, 37.2-505, and 32.1-127.1:03 to direct mental health inpatient facilities to share portions of a minor's discharge plan with the school's mental health professional or school counselor at a public elementary or secondary school under the following circumstances: Relevant portions of the discharge plan and/or related discharge documents shall be shared only if the facility determines that (i) the minor requires additional educational services as included in the discharge plan and/or related discharge documents, or (ii) the minor was originally admitted because the minor posed a threat of violence or physical harm to self or others. poses a risk of violence or physical harm to self or others at the time of discharge. This amendment shall include a provision that the facility shall provide reasonable notice to the parent of the minor prior to the release of such information. A parent may refuse	Lora Henderson Smith, Ph.D., Assistant Professor, Clinical & School Psychology & Natalie Hendrickson, M.Ed., Doctoral Student, University of Virginia: "SB 1143 narrows the scope of what information should be shared with schools and who it should be shared with, and it also gives parents more rights by including provisions for notification and right to refusal." "The use of the term "discharge plan" may be limiting for several reasons." Patients are more commonly provided with documents upon discharge such as 'Discharge Instructions,' 'Discharge Summaries,' or 'After Visit Summaries.' These titles vary across facilities." "It may be more meaningful to explicitly state the type of information that hospitals should share with school regardless of the name of the document." "It might also be considered that relevant information be shared with the school if school was the original referral source for the psychiatric evaluation that resulted in the current hospitalization."

disclosure of any or all portions of the discharge plan by providing written notice to the facility. **Sharing of information shall be done as permitted by federal law.**

Include an enactment clause directing the Department of Education to create guidelines to place safeguards around proper use of the information obtained and to prevent further disclosure of the discharge plan beyond the purpose for which such disclosure was made.

or

Virginia Hospital & Healthcare Association (VHHA):

“The draft recommendations suggest that discharge summaries be shared if the student was originally admitted due to posing a threat of violence or requiring additional educational services. Sharing discharge details based on admission criteria rather than discharge status may misrepresent the student’s current condition and progress.”

“Not all public schools have designated mental health professionals or counselors equipped to interpret or act on discharge plans. This raises questions about the efficacy and appropriateness of sharing clinical information with educational institutions. We recommend that any legislation include a requirement for schools to have trained personnel and protocols in place before receiving such information.”

“Recommendation one seems to have less risk as it requires the Department of Education to create guidelines to place safeguards around proper use of the information obtained and prevents further disclosure of the discharge plan beyond the purpose for which such disclosure was made. We suggest amending the bill to require the disclosure of discharge plans only when active safety concerns or educational needs exist.”

“Further recommendations would include the following requirements:

- School staff have written protocols and procedures for handling protected health information and limiting access to designated personnel.
- Schools must mandate training for school staff on confidentiality and trauma informed practices.
- Schools must certify the presence of qualified mental health professionals before receiving discharge information.
- Develop standardized templates and workflows for discharge documentation.
- Offer administrative support and encourage collaboration between schools and hospitals during the implementation.”

	Legal Aid Justice Center (LAJC): Opposes recommendation 1. “The automatic sharing of a discharge summary, or even portions of it, without proactively requiring parental consent and other safeguards surrounding dissemination, is problematic. Discharge records often contain highly sensitive information, for example, diagnoses, sexuality and gender identity, history of sexual abuse, private family matters, substance abuse, etc. Additionally, discharge records may contain information that is very subjective.” “Discharge summaries may also contain information that is clinical and medical, which may be misunderstood out of context. Moreover, there is concern that the shared information may be disseminated beyond the original recipient and later used against the child.” Virginia Association of Community Services Boards (VACSB): “Both recommendations appear intended to establish a state-law pathway that would qualify as a “required by law” exception under the Health Insurance Portability and Accountability Act (HIPAA). While this approach can permit certain disclosures, HIPAA allows them only when the statute explicitly mandates release, defines the specific information and recipient, and limits the purpose to what is strictly necessary.” “Recommendation 1, which would require hospitals to share portions of a discharge plan with a school mental-health professional or counselor, still grants facilities discretion (“if the facility determines that...”) and relies on an opt-out model rather than explicit parental authorization. The term “relevant portions of the discharge plan” is also undefined, creating risk of over-disclosure. As written, it does not clearly meet HIPAA’s or Virginia’s human-rights standards protecting minors and families.”
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Recommendation 2: Amend the *Code of Virginia* §§ 16.1-346.1, 37.2-505, and 32.1-127.1:03 to direct mental health inpatient facilities to notify **the school's mental health professional or school counselor at** the student's public elementary or secondary school prior to discharge from the facility if the facility determines that (i) the minor requires additional educational services as included in the discharge plan **and/or related discharge documents**, or (ii) ~~the minor was originally admitted because the minor posed a threat of violence or physical harm to self or others.~~ **poses a risk of violence or physical harm to self or others at the time of discharge.**

This amendment shall require the facility to give the parent of the minor reasonable advance notice before informing the school and allow the parent to decline such disclosure by submitting a written request to the facility. **Sharing of information shall be done as permitted by federal law.**

~~Public schools that wish to request further information from the student's discharge plan to develop a support plan shall have guidelines in place for obtaining a written release from a parent.~~

Include an enactment clause directing the Department of Education to create guidelines to place safeguards around proper use of the information obtained and to prevent further disclosure of the discharge plan beyond the purpose for which such disclosure was made.

Lora Henderson Smith, Ph.D., Assistant Professor, Clinical & School Psychology & Natalie Hendrickson, M.Ed., Doctoral Student, University of Virginia:

"We appreciate that Recommendation 2 allows the hospital to provide limited information to the school, allowing for the initiation of a conversation with the student and their family." "School mental health professionals report that access to information from a discharge summary promotes communication between the student/family, hospital, and school and supports their ability to meet the students' needs upon their return to school."

"If there is a specific school official for whom information should be shared with, it may be helpful to just use the term 'school mental health professional.'"

"The use of the term 'discharge plan' may be limiting for several reasons."

"It might also be considered that relevant information be shared with the school if school was the original referral source for the psychiatric evaluation that resulted in the current hospitalization."

Legal Aid Justice Center (LAJC):

Supports recommendation 2 with changes. 1) "Under either recommendation, affirmative parental consent should be required, as opposed to default information-sharing and an opt-out option." "By requiring affirmative consent, only parents who knowingly agree to information-sharing will have their child's sensitive psychiatric information shared with the school." 2) "the inpatient facility should notify the elementary school *only if* the child still poses a risk of violence or physical harm to self or others *at the time of discharge*. The facility should provide recommendations to the school on how to identify if the child's risk-level increases and/or how to mitigate this risk." 3) "The legislation should provide a remedy if the child's information is shared without parental consent or disseminated

improperly. We urge the Commission to add language to the proposed legislation that creates a complaint mechanism for the parent to follow, with appropriate remedies and accountability, should the child's information be shared without consent or disseminated improperly by the inpatient facility or the school."

Virginia Association of Community Services Boards (VACSB):
 "Recommendation 2 limits disclosure to a notification that a youth will be discharged and may need educational supports. If narrowly drafted to exclude diagnostic or treatment details, such notice could comply with HIPAA; however, the same discretionary and opt-out language leaves ambiguity and potential inconsistency in practice."

Additional Public Comment:

Lora Henderson Smith, Ph.D., Assistant Professor, Clinical & School Psychology & Natalie Hendrickson, M.Ed., Doctoral Student, University of Virginia: "Schools may also be able to support students after mental health-related emergency department visits that do not result in inpatient hospitalization (Henderson Smith, Hendrickson et al., 2025; Henderson Smith, Warren, et al., 2025). This is particularly important given that the majority of youth who visit the emergency department with a mental health concern are discharged home and expected to return to school the next day."

Liz Fuller, Special Education Law Attorney, Parent: "I agree that parents should be provided the option to give consent before their child's medical records and information are disclosed to school districts upon the discharge from a mental health facility."

Virginia Hospital & Healthcare Association (VHHA): "Singling out mental health records from other types of medical records is problematic and could discourage students from sharing critical information to access appropriate care. While the draft includes provisions for parental notification and refusal, these safeguards may be insufficient in practice." "[T]here is a real possibility that families may consent to disclosures without fully understanding their long-term consequences, unintentionally compromising patient privacy and parental trust in the care system."

"The proposed recommendations could divert resources from direct patient care and complicate discharge workflows. We recommend a collaborative approach that includes input from hospitals, schools, and legal experts to streamline processes and minimize unintended consequences. "[T]here is concern that the information will still be released to the school administrator or others not directly involved in the student's care by way of the mental health professional or school counselor."

“We support efforts to enhance coordination between healthcare and education systems but urge caution in implementing policies that may compromise patient privacy, misrepresent clinical status, or overburden families and providers.”

Legal Aid Justice Center (LAJC): “To be clear, we are 100% in favor of the emphasis on planning, communication, and support for additional educational services for youth transitioning post-discharge into the school environment. That said, information sharing must be balanced with privacy protections, and in general, parents are best-equipped to make the determination of whether the benefits of information-sharing outweigh the risks.”

“Under current law, schools often are notified of the hospitalization because of the child’s absence from school and/or transfer of educational records, but schools are not entitled to access the discharge summary. Parents may choose to voluntarily share a discharge summary with schools, but this is not required.”

“The benefit of information-sharing is that the discharge summary contains recommendations that the school system could implement to support the child’s return. In fact, the child’s hospitalization should trigger a school meeting to consider whether the child has a disability and requires accommodations or an IEP.”

“Schools should be notified when additional education services are recommended by the inpatient facility, so that they can meet their obligations under disability discrimination laws.”

Virginia Association of Community Services Boards (VACSB): “Effective information-sharing can strengthen safety planning and educational supports for youth re-entering their communities. However, any new statutory framework must also protect family rights, uphold confidentiality laws, and ensure practical implementation across systems.”

“In addition to clarifying the language to contemplate the above, the VACSB recommends that, at a minimum, the following be considered if the Commission decides to move forward with either recommendation:

- Schools need to be supported to ensure that protected health information is handled appropriately which includes training and the development of standards related to this process.
- Training should be required for any staff designated to receive discharge plans.
- Standards should address documentation, confidentiality and ethics.”