

## 2012 Updates on Mandatory Outpatient Treatment in Virginia

### Overview

In 2012 the Virginia General Assembly enacted House Bill 475 and House Bill 476 (both patroned by Delegate David Albo from Fairfax) relating to Mandatory Outpatient Treatment (“MOT”). These laws become effective July 1, 2012.

### What does HB 475 do?

- HB 475 clarifies a portion of the commitment criteria found in Virginia Code § 37.2-817.D pertaining to mandatory outpatient treatment in lieu of hospitalization.
  - It retains the two prong civil commitment criteria for inpatient hospitalization, but permits the court to order MOT if it finds that less restrictive alternatives to involuntary inpatient treatment are appropriate and the “(c) person has agreed to abide by his treatment plan and has the ability to do so; and (d) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person.”
- It streamlines the findings that the treating physician must make under § 37.2-817.C2 when discharging an involuntary patient to “step-down” MOT.
  - The physician will now be required to find that “(i) the person (a) in view of [his] treatment history and current behavior, no longer needs inpatient hospitalization, (b) requires mandatory outpatient treatment at the time of discharge to prevent relapse or deterioration of his condition that would likely result in his meeting the criteria for involuntary inpatient treatment, and (c) has agreed to abide by his discharge plan and has the ability to do so; and (ii) the ordered treatment will be delivered on an outpatient basis by the community services board or designated provider to the person.”
- It extends the length of the step-down MOT from the combined maximum for both the inpatient and outpatient commitment of 30 days to 90 days.
- It that restraint or physical force cannot be used to administer medications to individuals who are subject to a MOT order.

### What does HB 476 do?

- Effective July 1, 2012, a treating physician, a family member or a personal representative of the person, or the CSB serving the area where the facility is located may file a “motion” with the court to subject this person to MOT.
- To be ordered to MOT, a voluntary patient who was the subject of a temporary detention order prior to the voluntary admission, must on at least two previous occasions within 36 months preceding the date of the hearing have been the subject of a temporary detention order and voluntarily admitted himself or been involuntarily committed.
- Upon the filing of such a motion, the court must hold a hearing prior to the person’s discharge and within 72 hours, 9 (not 48 hours as is required when a temporary detention order has been issued) to determine whether the person should be ordered to MOT under subsection D of § 37.2-817, the subsection pertaining to MOT in lieu of inpatient hospitalization, and not subsection C1 and C2 pertaining to “step-down” MOT