

EXPLANATION OF TEMPORARY DETENTION PROCEDURES

To the Respondent detained pursuant to Va. Code § 37.2-809:

You are a person who has been detained pursuant to a temporary detention order issued by a magistrate.

You were detained because the magistrate decided that there was probable cause to believe that:

1. You have a mental illness and there exists a substantial likelihood that, as a result of mental illness, you will in the near future
 - a. cause serious physical harm to yourself or others as evidenced by your recent behavior causing, attempting or threatening harm and other relevant information, OR
 - b. suffer serious harm due to your lack of capacity to protect yourself from harm or to provide for your basic needs, AND
2. You are in need of hospitalization or treatment, AND
3. You are unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

You were detained after an evaluation was conducted by an employee or designee of the community services board. An evaluation was not required if you were personally examined within the previous 72 hours, or there was a significant physical, psychological or medical risk to you or to the people associated with the evaluation.

You will be detained in the facility listed on the temporary detention order, which may be a state facility, or in another facility if it is determined that another facility is a more appropriate facility for you given your specific security, medical, or behavioral health needs.

You will not be detained in a jail or other place of confinement for people charged with criminal offenses unless you are an inmate or under criminal charges.

Any facility caring for you under a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in your best interests.

You may be detained under the temporary detention order for up to 72 hours prior to a court hearing; however, if the 72 hours ends on a Saturday, Sunday, legal holiday or a day on which the court is lawfully closed, you may be detained until the close of business on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

While you are detained, you will be personally examined in private by a psychiatrist, psychologist or a licensed mental health professional, who will assess your mental status and make recommendations to a judge or special justice for your placement, care and treatment. The community services board will prepare a preadmission screening report and provide the report to the court prior to the hearing.

AUTHORIZATION FOR DISCLOSURE AND USE OF HEALTH INFORMATION

Under Virginia Code § 37.2-804.2, any health care provider, as defined in Virginia Code § 32.1-127.1:03, or other provider who has provided or is currently providing services to a person who is the subject of proceedings pursuant to Title 37.2, Chapter 8 of the Code of Virginia must, upon request, disclose to a magistrate, the court, the person's attorney, the person's guardian *ad litem*, the examiner identified to perform an examination of a person who is the subject of a commitment hearing for involuntary admission, the community services board or its designee performing any related evaluation, preadmission screening, or monitoring duties, or a law-enforcement officer any information that is necessary and appropriate for the performance of his duties pursuant to § 37.2-800 et seq. Any health care provider, as defined in § 32.1-127.1:03, or other provider who has provided or is currently evaluating or providing services to a person who is the subject of emergency custody or involuntary temporary detention proceedings must disclose information that may be necessary for the treatment of such person to any other health care provider or other provider evaluating or providing services to or monitoring the treatment of the person. Health records disclosed to a law-enforcement officer must be limited to information necessary to protect the officer, the person, or the public from physical injury or to address the health care needs of the person. Information disclosed to a law-enforcement officer must not be used for any other purpose, disclosed to others, or retained.

Any health care provider disclosing records pursuant to Virginia Code § 37.2-804.2 will be immune from civil liability for any harm resulting from the disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended, unless the person or provider disclosing such records intended the harm or acted in bad faith.

