

12 VAC 35-210-10. Authority and applicability.

This regulation is adopted pursuant to § 37.2-837 B of the Code of Virginia to establish a process [to facilitate community integration] and the conditions for granting a trial or home visit to individuals admitted to [mental health and mental retardation facilities state hospitals or training centers] operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

This regulation shall not apply to individuals receiving services in a facility who are committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, Title 19.2 or Title 53.1 of the Code of Virginia.

12 VAC 35-210-20. Definitions.

The following words or terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:

["Authorized representative" or "AR" means a person permitted by law or the State Mental Health, Mental Retardation, and Substance Abuse Services Board's regulations to authorize the disclosure of information, to consent to treatment and services, or participation in human research, and to authorize the disclosure of information on behalf of an individual who lacks the mental capacity to make these decisions.]

"[Case management community Community] services board " or "CSB" [is a citizen board means the public body] established pursuant to § 37.2-501 of the Code of Virginia that [serves the area in which an adult resides or in which a minor's parent, guardian, or legally authorized representative resides. The case management community services board (CSB) is responsible for case management, liaison with the state facility when an

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~~individual is admitted to a state hospital or training center, and discharge planning. If an individual, or the parents, guardian or legally authorized representative on behalf of an individual chooses to reside in a different locality after discharge from the facility, the community services board serving that locality becomes the case management CSB, provides mental health, mental retardation, and substance abuse services to individuals within each city or county that established it. For the purpose of these regulations, community services board also includes a behavioral health authority established pursuant to §37.2-602.]~~

"Day pass" means authorized leave from the facility without a staff escort generally occurring during the day and not extending overnight.

"Department" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Family visit" means an authorized overnight absence from a state hospital or training center that allows an individual to spend time with family members, [a legally an] authorized representative, or other responsible person or persons.

"Individual" means a person who is receiving services in a state hospital or training center. This term includes the terms "consumer," "patient," "resident," and "client."

["Individualized services plan" or "ISP" means a comprehensive and regularly updated written plan that includes but is not limited to an individual's treatment plan, functional plan, habilitation plan, or plan of care that meets the needs and preferences of an individual and describes the measureable goals, objectives, and expected outcomes.]

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~~["Legally authorized representative" or "LAR" means a person permitted by law or regulations to give informed consent to treatment, including medical treatment and participation in human research, and to authorize the disclosure of information on behalf of an individual who lacks the mental capacity to make these decisions.]~~

~~"Missing person" means an individual who is not physically present when and where he should be and his absence cannot be accounted for or explained.~~

~~"Responsible person" means an individual's parent, guardian, relative, friend, or other person whom the facility director determines is capable of providing the individual with the needed care and supervision, and if the individual has a [LAR AR] for whom the [LAR AR] has given written consent to supervise the individual during temporary leave from the facility.~~

~~"Services plan" means a plan that defines and describes measurable goals, objectives and expected outcomes of services that are designed to meet an individual's specific and unique treatment needs. The term "services plan" may include but is not limited to the terms, "individualized services plan," "treatment plan," "habilitation plan," or "plan of care."~~

~~"Services record" means all clinical and medical documentation that the facility maintains about an individual who receives services.]~~

~~"State facility" or "facility" means a hospital or training center operated by the department for the care and treatment of individuals with mental illness or mental retardation.~~

~~"Trial visit" means an authorized overnight absence from a state facility without a staff escort for the purpose of assessing an individual's readiness for discharge. Trial visits do~~

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not include special hospitalizations, facility-sponsored summer camps, or other facility-sponsored activities that involve staff supervision.

12 VAC 35-210-30. General requirements for temporary leave.

A. Directors of state facilities shall develop written [operating] policies [and procedures] for authorizing and implementing the following types of temporary leave from the facility:

1. Day passes for periods that do not extend overnight;

2. Family visits and trial visits for a maximum of 28 consecutive days per episode for individuals in training centers; and

3. Family visits and trial visits for a maximum of 14 consecutive days per episode for individuals in state hospitals.

B. The justification for all temporary leave shall be documented in the [individual's services record ISP]. This documentation shall include:

1. The reason for granting the specific type of leave;

2. The benefit to the individual;

3. [How the individual participated in the decision-making related to temporary leave ; and

4.] How the leave addresses a specific objective or objectives in the individual's [services plan ISP] ; and

4. The signature of the facility director or designee authorizing the temporary leave.

C. [Exceptions to time limitations for family visits and trial visits. Facility directors may extend the time limits, established in subdivision A of this subsection, for family visits or trial visits in individual cases when they determine that the circumstances justify an

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~~extension. When an extension is granted, the reasons and justification to support the extension shall be documented in the individual's services record. This documentation shall include:~~

~~1. The reason for the time extension;~~

~~2. The benefit to the individual; and~~

~~3. The signature of the facility director or designee authorizing the extension.~~

D.] Responsible persons during leave.

1. Adults and emancipated minors receiving services in state hospitals who are granted a day pass, family visit, or trial visit may be:

a. Placed in the care of a parent, spouse, relative, guardian, [a facility licensed by the Department] or other responsible person or persons; or

b. Authorized to leave the facility on his own recognizance, when, in the judgment of the [individual and the] facility director, this leave is appropriate.

2. Individuals in training centers and minors receiving services in any state hospital, who are granted a day pass, family visit, or trial visit shall be placed in the care of:

a. The parent, legal guardian, or [LAR AR]; or

b. Another relative, friend, or other responsible person or persons, [or a facility licensed by the Department] with the prior written consent of the [LAR AR].

[D. The state facility granting a trial or family visit to an individual shall not be liable for his expenses during the period of that visit. Expenses incurred by an individual during a trial visit or family visit shall be the responsibility of the person into whose care the individual

is entrusted or the appropriate local department of social services of the county or city of which the individual at the time of his admission to the facility, as appropriate, pursuant to § 37.2-837.B.]

12 VAC 35-210-40. Day passes.

Each facility shall have specific policies for day passes that include:

1. Criteria for granting day passes;
2. Designation of staff members who are authorized to issue day passes; and
3. Any forms to be used by the facility regarding the issuance of day passes.

12 VAC 35-210-50. Trial visits.

A. The facility and the [~~case management~~] CSB may arrange trial visits for the purpose of assessing an individual's readiness for discharge from the facility. These trial visits shall be planned during the regularly scheduled review of the [~~individual's services plan~~ ISP] or at other times in collaboration with (i) the individual, (ii) the individual's family or [~~LAR~~ AR] or (iii) any other person or persons requested by the individual. [When trial visits are used in conjunction with discharge planning, the state facility treatment team shall meet with the individual to discuss his preferences for residential settings and give due consideration to his expressed preferences. If the treatment team cannot reasonably accommodate the individual's preferences, a member of the treatment team shall meet with the individual to discuss the reasons for this determination and the options that are available to him. The treatment team shall document in the individual's record that it has met with the individual to consider his preferences and review the available options.]

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[Plans All plans] for trial visits shall be documented in the [individual's services record ISP] and include consideration of the following:

1. The individual's preferences for residential setting; and

2. The individual's needs for support and supervision.

B. In advance of the trial visit, the facility shall work with the individual, [case management] CSB, and responsible persons, as appropriate, to develop an emergency contingency plan to ensure appropriate and timely crisis response.

12 VAC 35-210-60. Family visits.

A. Family visits may include visits with the individual's immediate or extended family, [LAR-AR], friends, or other persons arranged by the family or [LAR-AR].

1. Training centers shall plan family visits in collaboration with the individual, his family or [LAR-AR], and when appropriate, the [case management] CSB;

2. State hospitals shall plan family visits in collaboration with the individual and his family or [LAR-AR], and when appropriate, the [case management] CSB.

B. When planning family visits facilities shall:

1. Develop plans to address potential emergencies or unexpected events;

2. Consider whether the visit has an impact on the treatment or training schedule and make appropriate accommodations; and

3. Give consideration to the individual's medical, behavioral, and psychiatric status.

12 VAC 35-210-70. Required authorizations and documentation.

The facility shall not release individuals for trial visits or family visits unless the required authorizations have been obtained and documentation is included in the individual's [services] record.

12 VAC 35-210-80. Illness or injury occurring during a family or trial visit.

A. When a facility is notified that an individual is injured or ill and requires medical attention while on a trial or family visit, the facility director or designee shall notify the (i) facility medical director, (ii) treatment team leader, (iii) facility human rights advocate, and (iv) ~~case management~~ the] CSB. The facility director shall also ensure that all events are reported in accordance with department and facility policy and protocol for risk management.

B. The facility director or designee may assist the ~~case management~~] CSB or the responsible person to identify an appropriate setting for the evaluation and treatment of the individual. The facility medical director may also consult with the physician and any other medical personnel who are evaluating or treating the individual. However, the individual shall not ~~be returned~~ return] to the facility until he is medically stabilized.

C. Individuals who have been admitted to a state hospital on a voluntary basis and require acute hospital admission for illness or injury while on temporary leave from the state hospital may voluntarily return to the state hospital following discharge from an acute care hospital if they continue to meet the admission criteria.

D. If an individual has been legally committed to a state hospital and his length of stay in an acute care hospital exceeds the period of commitment to the state facility, the facility shall:

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1. Discharge the individual in collaboration with the [case management] CSB; and

2. Notify the individual or his [LAR-AR] in writing of the discharge.

E. [All medical expenses incurred by an individual during a trial visit or family visit are the responsibility of the person into whose care the individual was entrusted or the appropriate local department of social service of the county or city of which the individual was resident at the time of his admission to the facility pursuant to § 37.2-837 B of the Code of Virginia.]

F.] If the facility is notified that an individual has died while on temporary leave, the facility director or designee shall:

1. Notify the appropriate facility staff, including, the medical director, risk manager, treatment team leader, and human rights advocate;

2. Notify the [case management appropriate] CSB, if necessary;

3. File the appropriate documentation of the death in accordance with department policies and procedures; and

4. Notify the state medical examiner in writing of the death.

12 VAC 35-210-90. Failure to return to training centers.

A. When an individual fails to return to a training center [facility] from any authorized day pass, family visit, or trial visit within two hours of the scheduled deadline, the facility director or designee shall contact the responsible person into whose care the individual was placed to determine the cause of the delay.

B. Upon the request of the responsible person, the facility director may extend the period of a family or trial visit for up to 72 hours beyond the time the individual was scheduled to return when:

1. An emergency or unforeseen circumstances delay the individual's return to the training center; and

2. The individual's [~~LAR~~ AR] agrees to the extension.

Extensions for emergency or unforeseen circumstances shall not be granted in advance of the family visit or trial visit. ~~See 12 VAC 35-210-30 C for the conditions and requirements for granting individual exceptions to specified time limitations family or trial visits.~~

C. If an individual does not return to the training center from a trial visit or family visit within two hours of the established deadline for his return and the [~~facility~~ training center] is unable to contact the responsible person into whose care the individual was placed, the facility director or designee may extend the period of the visit for up to 24 hours if, in his judgment, the extension is justified. During this period the facility shall continue efforts to contact the responsible person.

D. If an individual does not return to the training center and his absence cannot be accounted for or reasonably explained by the responsible person or a family member, he shall be classified as a missing person, and the facility [~~will~~ shall] follow the department's policies and procedures for management of individuals who are missing.

E. If no emergency or unforeseen circumstances exist that may prevent the individual's return to the facility, and the responsible person does not agree to the return of the

individual to the training center as scheduled, the facility director shall contact the [case management] CSB and discharge the individual. Written notification of discharge shall be sent to the individual's [LAR-AR].

12 VAC 35-210-120. Failure to return to hospitals.

A. When an individual fails to return to a state hospital from any authorized day pass, family visit, or trial visit within two hours of the scheduled deadline, the facility director or designee shall contact the responsible person into whose care the individual was placed to determine the cause of the delay.

B. Upon the request of the responsible person, the facility director may extend the period of the visit for up to 72 hours beyond the time the individual was scheduled to return when:

1. An emergency or unforeseen circumstances delay the individual's return to the hospital; and

2. The individual or his [LAR-AR] agree to the extension.

Extensions for emergency or unforeseen circumstances shall not be granted in advance of the family visit or trial visit. See 12 VAC 35-210-30 C for the conditions and requirements for granting individual exceptions to specified time limitations in advance of family or trial visits.

C. If an individual agrees to return to the facility, the facility director or designee may assist the individual to make arrangements for his return in collaboration with the [case management] CSB and the responsible person, when necessary.

D. If an individual is unwilling to return to the facility, the facility director or his designee shall contact the responsible person to determine whether continued hospitalization is appropriate or the individual should be discharged.

1. If there is no evidence that the individual meets the criteria for hospitalization then the facility shall discharge the individual in collaboration with the [case management] CSB.

2. If the individual has been legally committed to the hospital and the facility director determines that the individual may require further hospitalization [and he currently meets commitment criteria,] or that the individual cannot be located, the facility director shall:

a. Ensure that the commitment order is valid;

b. Classify the individual as a missing person;

c. Alert the [case management] CSB pursuant to the department's policies and procedures for managing of individuals who are missing from state facilities;

d. Issue a warrant for the individual's return [under § 37.2-834 of the Code of Virginia];
and

e. Arrange for a physical examination at the time of the individual's return to the facility.

3. If the individual is on voluntary status or the commitment order is no longer valid the facility director, after consulting with the appropriate clinical staff, shall:

a. Discharge the individual; and

b. Alert the [case management] CSB of the individual's status.

F. When it is determined that an individual [on temporary leave] who has been legally committed [and currently meets criteria for commitment] to the facility [and has been on

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temporary leave] must be returned to the facility and the individual refuses to return on his own accord, the facility director or his designee shall:

1. Issue a warrant for the individual's return [under § 37.2-834 of the Code of Virginia];
and

2. Contact the [case management] CSB upon revocation of the trial visit.

I certify that this regulation is full, true, and correctly dated.

James S. Reinhard, M.D., Commissioner
Department of Mental Health, Mental Retardation
and Substance Abuse Services

Date _____