



## **Medical and Mental Health Treatment in Virginia Jails**

In Virginia, each local jail has its own policies and procedures. Health and mental health treatment services vary widely from facility to facility, which can affect how they are addressed. Different jails may have a full-time doctor or psychiatrist, contract with private providers, or contract with local community services boards (CSBs). Even though policies are different between facilities, all jails and prisons in Virginia MUST be compliant with Title II regulations under the Americans with Disabilities Act (ADA). Title II of the ADA protects the rights of people with disabilities by ensuring equal treatment, accessible and reasonable accommodations, and the prevention of abuse, neglect, and exploitation.

### **Do people in jail have a right to medical and mental health treatment?**

Yes. However, for that right to apply, the jail staff must know that you have a “serious medical need.” They must also know what treatment is needed and must understand how you could be hurt if they do not provide treatment.

### **Can I use medications I already have while in jail?**

It depends on that jail’s policy and, in some cases, what the medication is. Check with the jail about its policies. Frequently, you can use medication prescribed for you if it is in the original bottle and clearly labeled. The jail may check with your doctor to verify the prescription.

### **Can the jail charge for medications or treatment?**

Generally, jails will charge co-pays for medications and medical appointments. Jails cannot refuse to provide needed treatment for serious medical/mental health conditions if you cannot pay for your treatment.

### **What can I do to make sure that I get the care I need while I’m in jail?**

We suggest that you ask your regular doctor to write a letter explaining:

- Your medical and/or mental health conditions
- How you will be harmed if you do not get the care you need, and
- The treatment/medication needed to prevent that harm. If you are not able to contact your doctor, a friend or family member can make the request.

If you can’t get a letter from your doctor, you or someone you trust can write a letter that explains the above.

### **Who should get that letter?**

Send any letters to:

- Jail administrator

- Jail's contract physician (if you know who that is)
- Attorney representing you

Send the letter to the jail administrator and physician by certified mail so you will have proof that they received it. You should keep a copy of the letter in case you ever need it as evidence of deliberate indifference.

### **What is deliberate indifference?**

Deliberate indifference is a legal term used to describe when the safety or medical harm of an inmate is intentionally disregarded, and their rights are being violated by jail staff. Deliberate indifference requires **both knowledge by jail staff** that a protected right is likely being violated **and a failure to act** on that likelihood.

### **How are staff held accountable for not providing treatment?**

To be liable, staff must **know** about your serious health condition, know that failing to treat you could seriously harm you and **refuse** to provide treatment.

### **How do I complain if I think my rights are violated?**

Each jail will have its own complaint procedure. You should have received a copy of your rights and an overview of the grievance policy at admission. If not, request that information from the administrator. You must use that jail's process and complete each step, on time, to preserve your rights. **The Prison Litigation Reform Act (PLRA) requires that you complete each step in the appeal process before you can file a lawsuit.**

Another option is to file a complaint through the Americans with Disabilities Act (ADA) under the Department of Justice (DOJ). There are three ways that an ADA complaint can be filed and sent to the Department of Justice, Civil Rights Division:

1. Fill out an online complaint form on the Department of Justice, Civil Rights Division website: <https://civilrights.justice.gov/report/>
2. Complete a complaint form, virtually or physically, and mail it to:
  - a. U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Washington, DC 20530
  - b. Complaint forms can be:
    - i. typed out online and printed
    - ii. or printed and handwritten
  - c. Complaint forms are available in [regular format](#) or [large format](#). Click on the links in this form or check out the Department of Justice, Civil Rights Division website for access to these forms: <https://www.ada.gov/file-a-complaint/>
3. Fill out and send the paper ADA Complaint Form ([Regular Format](#) | [Large Format](#)) or a letter containing the same information, and fax to (202) 307-1197.

**\*It is important to always keep a copy of your complaint and any associated documents for your own records! In addition, send copies of documents and keep the originals.**

### **What if access to care is a problem many inmates are experiencing?**

You or other concerned individuals can file ADA complaints to the Civil Rights Division (same process as above) and those complaints may go to the Special Litigation Section (SLS). SLS reviews civil rights complaints from jails and may investigate when they identify a trend. SLS does not have the legal authority to represent individuals but can investigate system-wide violations. This is a very useful option if there is a jail-wide failure to provide needed health or mental health care, or if the jail has policies that deny such care.