

# VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

## CHAPTER 176

*An Act to amend and reenact §§ 32.1-127 and 63.1-174.001 of the Code of Virginia, relating to adult protective services.*

[H 1168]

Approved March 24, 2000

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-127 and 63.1-174.001 of the Code of Virginia are amended and reenacted as follows:**

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.) of this chapter.

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to assure the environmental protection and the life safety of its patients and employees and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; and (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a routine contact protocol which ensures that the families of suitable organ and tissue donors are offered the opportunity by the chief administrative officer of the hospital or his designee to consider organ, tissue and eye donation;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be based on Joint Commission on Accreditation of Healthcare Organizations' standards; ~~and~~

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols; ~~and~~

*10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.1-55.3 on such reporting procedures and the consequences for failing to make a required report.*

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

§ 63.1-174.001. Admissions and discharge.

A. The Board shall promulgate regulations:

1. Governing admissions to adult care residences.

2. Establishing a process to ensure that residents admitted or retained in an adult care residence receive the appropriate services and that, in order to determine whether a resident's needs can continue to be met by the residence and whether continued placement in the residence is in the best interests of the resident, each resident receives periodic independent reassessments and reassessments in the event of significant deterioration of the resident's condition.

3. Governing appropriate discharge planning for residents whose care needs can no longer be met by the residence.

4. Addressing the involuntary discharge of residents.

5. Requiring that residents are informed of their rights pursuant to § 63.1-182.1 at the time of admission.

6. Establishing a process to ensure that any resident temporarily detained in an inpatient facility pursuant to § 37.1-67.1 is accepted back in the adult care residence if the resident is not involuntarily committed pursuant to § 37.1-67.3.

*7. Requiring that each adult care residence train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.1-55.3 on such reporting procedures and the consequences for failing to make a required report.*

B. Adult care residences shall not admit or retain individuals with any of the following conditions or care needs:

1. Ventilator dependency.

2. Dermal ulcers III and IV, except those stage III ulcers which are determined by an independent physician to be healing.

3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy managed by a health care professional licensed in Virginia or as permitted in subsection C.

4. Airborne infectious disease in a communicable state, that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold.

5. Psychotropic medications without appropriate diagnosis and treatment plans.

6. Nasogastric tubes.

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection C.

8. Individuals presenting an imminent physical threat or danger to self or others.

9. Individuals requiring continuous licensed nursing care (seven-days-a-week, twenty-four-hours-a-day).

10. Individuals whose physician certifies that placement is no longer appropriate.

11. Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by the uniform assessment instrument and meet Medicaid nursing facility level-of-care criteria as defined in the State Plan for Medical Assistance. Maximum physical assistance means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

12. Individuals whose health care needs cannot be met in the specific adult care residence as determined by the residence.

13. Such other medical and functional care needs of residents which the Board determines cannot properly be met in an adult care residence.

C. Except for auxiliary grant recipients, at the request of the resident, and pursuant to regulations of the State Board, care for the conditions or care needs defined in subdivisions B 3 and B 7 may be provided to a resident in an adult care residence by a licensed physician, a licensed nurse under a physician's treatment plan or by a home care organization licensed in Virginia when the resident's

independent physician determines that such care is appropriate for the resident. Regulations for this subsection shall be effective within 280 days of July 1, 1995.

D. In promulgating regulations pursuant to subsections A, B and C above, the Board shall consult with the Departments of Health and Mental Health, Mental Retardation and Substance Abuse Services.