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HOUSE BILL NO. 1471**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Counties, Cities and Towns
on February 11, 2000)

(Patron Prior to Substitute—Delegate Hall)

A BILL to amend and reenact §§ 2.1-1.5, as it is currently in effect and as it will become effective, 2.1-20.1, 2.1-20.1:2, 2.1-116, 2.1-342, 2.1-344, 23-50.16:1, 23-50.16:3, 23-50.16:4, 23-50.16:5, 23-50.16:7, 23-232, 32.1-85, 32.1-276.3 and 51.1-126.1 of the Code of Virginia, relating to Medical College of Virginia Hospitals Authority.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, as it is currently in effect and as it will become effective, 2.1-20.1, 2.1-20.1:2, 2.1-116, 2.1-342, 2.1-344, 23-50.16:1, 23-50.16:3, 23-50.16:4, 23-50.16:5, 23-50.16:7, 23-232, 32.1-85, 32.1-276.3 and 51.1-126.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.

~~Medical College of Virginia Hospitals Authority.~~

Richmond Eye and Ear Hospital Authority.

Small Business Financing Authority.

Virginia Agriculture Development Authority.

Virginia College Building Authority.

~~Virginia Commonwealth University Health System Authority.~~

Virginia Economic Development Partnership.

Virginia Housing Development Authority.

Virginia Information Providers Network Authority.

Virginia Innovative Technology Authority.

Virginia Port Authority.

Virginia Public Building Authority.

Virginia Public School Authority.

Virginia Resources Authority.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.

Board of Commissioners, Virginia Port Authority.

Board of Directors, Assistive Technology Loan Fund Authority.

~~Board of Directors, Medical College of Virginia Hospitals Authority.~~

Board of Directors, Richmond Eye and Ear Hospital Authority.

Board of Directors, Small Business Financing Authority.

~~Board of Directors, Virginia Commonwealth University Health System Authority.~~

Board of Directors, Virginia Economic Development Partnership.

Board of Directors, Virginia Innovative Technology Authority.

Board of Directors, Virginia Resources Authority.

Board of Regents, Gunston Hall Plantation.

Board of Regents, James Monroe Memorial Law Office and Library.

Board of Trustees, Family and Children's Trust Fund.

Board of Trustees, Frontier Culture Museum of Virginia.

Board of Trustees, Jamestown-Yorktown Foundation.

Board of Trustees, Miller School of Albemarle.

Board of Trustees, Rural Virginia Development Foundation.

Board of Trustees, The Science Museum of Virginia.

Board of Trustees, Virginia Museum of Fine Arts.

Board of Trustees, Virginia Museum of Natural History.

Board of Trustees, Virginia Outdoor Foundation.

Board of Visitors, Christopher Newport University.

Board of Visitors, George Mason University.

Board of Visitors, Gunston Hall Plantation.

Board of Visitors, James Madison University.

Board of Visitors, Longwood College.

HOUSE SUBSTITUTE

HB1471H1

60	Board of Visitors, Mary Washington College.
61	Board of Visitors, Norfolk State University.
62	Board of Visitors, Old Dominion University.
63	Board of Visitors, Radford University.
64	Board of Visitors, The College of William and Mary in Virginia.
65	Board of Visitors to Mount Vernon.
66	Board of Visitors, University of Virginia.
67	Board of Visitors, Virginia Commonwealth University.
68	Board of Visitors, Virginia Military Institute.
69	Board of Visitors, Virginia Polytechnic Institute and State University.
70	Board of Visitors, Virginia State University.
71	Commonwealth Health Research Board.
72	Governing Board, Virginia College Building Authority.
73	Governing Board, Virginia Public School Authority.
74	Library Board, The Library of Virginia.
75	Motor Vehicle Dealer Board.
76	State Board for Community Colleges, Virginia Community College System.
77	Virginia-Israel Advisory Board.
78	(Effective until July 1, 2002) Wireless E-911 Service Board.
79	Commissions
80	Advisory Commission on the Virginia Schools for the Deaf and the Blind.
81	Alexandria Historical Restoration and Preservation Commission.
82	Charitable Gaming Commission.
83	Chesapeake Bay Bridge and Tunnel Commission.
84	Hampton Roads Sanitation District Commission.
85	Tobacco Indemnification and Community Revitalization Commission.
86	Districts
87	Chesapeake Bay Bridge and Tunnel District.
88	Hampton Roads Sanitation District.
89	Educational Institutions
90	Christopher Newport University.
91	Frontier Culture Museum of Virginia.
92	George Mason University.
93	James Madison University.
94	Jamestown-Yorktown Foundation.
95	Longwood College.
96	Mary Washington College.
97	Miller School of Albemarle.
98	Norfolk State University.
99	Old Dominion University.
100	Radford University.
101	The College of William and Mary in Virginia.
102	The Library of Virginia.
103	The Science Museum of Virginia.
104	University of Virginia.
105	Virginia Commonwealth University.
106	Virginia Community College System.
107	Virginia Military Institute.
108	Virginia Museum of Fine Arts.
109	Virginia Polytechnic Institute and State University.
110	Virginia State University.
111	Foundations
112	Chippokes Plantation Farm Foundation.
113	Rural Virginia Development Foundation.
114	Virginia Arts Foundation.
115	Virginia Land Conservation Foundation.
116	Virginia Historic Preservation Foundation.
117	Virginia Outdoor Foundation.
118	Virginia Tobacco Settlement Foundation.
119	Museum
120	Virginia Museum of Natural History.
121	Partnership

122 A. L. Philpott Manufacturing Extension Partnership.
 123 Plantation
 124 Gunston Hall Plantation.
 125 § 2.1-1.5. (Delayed effective date) Entities not subject to standard nomenclature.
 126 The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics
 127 or the enabling legislation of the entities:
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 151 Board of Directors, Virginia Economic Development Partnership.
 152 *Board of Directors, Virginia Commonwealth University Health System Authority.*
 153 Board of Directors, Virginia Innovative Technology Authority.
 154 Board of Directors, Virginia Resources Authority.
 155 Board of Regents, Gunston Hall Plantation.
 156 Board of Regents, James Monroe Memorial Law Office and Library.
 157 Board of Trustees, Family and Children's Trust Fund.
 158 Board of Trustees, Frontier Culture Museum of Virginia.
 159 Board of Trustees, Jamestown-Yorktown Foundation.
 160 Board of Trustees, Miller School of Albemarle.
 161 Board of Trustees, Rural Virginia Development Foundation.
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 181 Board of Visitors, Virginia State University.
 182 Commonwealth Health Research Board.

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- 228 Virginia Museum of Natural History.
- 229 Partnership
- 230 A. L. Philpott Manufacturing Extension Partnership.
- 231 Plantation
- 232 Gunston Hall Plantation.
- 233 § 2.1-20.1. Health and related insurance for state employees.
- 234 A. 1. The Governor shall establish a plan for providing health insurance coverage, including
- 235 chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees
- 236 and retired state employees with the Commonwealth paying the cost thereof to the extent of the
- 237 coverage included in such plan. The Department of Personnel and Training shall administer this section.
- 238 The plan chosen shall provide means whereby coverage for the families or dependents of state
- 239 employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for
- 240 such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying
- 241 the additional cost over the cost of coverage for an employee.
- 242 2. Such contribution shall be financed through appropriations provided by law.
- 243 B. The plan shall:
- 244 1. a. Include coverage for low-dose screening mammograms for determining the presence of occult

breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, and one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

b. In order to be considered a screening mammogram for which coverage shall be made available under this section:

(1) The mammogram must be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization physician, (ii) performed by a registered technologist, (iii) interpreted by a qualified radiologist, and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report must be sent or delivered to the health care practitioner who ordered it;

(2) The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

(3) The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition.

3. Include coverage for postpartum services providing inpatient care and a home visit or visits which shall be in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

4. a. Include an appeals process for resolution of written complaints concerning denials or partial denials of claims that shall provide reasonable procedures for resolution of such written complaints and shall be published and disseminated to all covered state employees. Such appeals process shall include a separate expedited emergency appeals procedure which shall provide resolution within one business day of receipt of a complaint concerning situations requiring immediate medical care. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more impartial health entities to review such decisions. Impartial health entities may include medical peer review organizations and independent utilization review companies. The Department shall adopt regulations to assure that the impartial health entity conducting the reviews has adequate standards, credentials and experience for such review. The impartial health entity shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

b. Prior to assigning an appeal to an impartial health entity, the Department shall verify that the impartial health entity conducting the review of a denial of claims has no relationship or association with (i) the covered employee, (ii) the treating health care provider, or any of its employees or affiliates, (iii) the medical care facility at which the covered service would be provided, or any of its employees or affiliates, or (iv) the development or manufacture of the drug, device, procedure or other therapy which is the subject of the final denial of a claim. The impartial health entity shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an impartial health entity for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

5. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

306 Medically necessary early intervention services for the population certified by the Department of Mental
307 Health, Mental Retardation and Substance Abuse Services shall mean those services designed to help an
308 individual attain or retain the capability to function age-appropriately within his environment, and shall
309 include services which enhance functional ability without effecting a cure.

310 For persons previously covered under the plan, there shall be no denial of coverage due to the
311 existence of a preexisting condition. The cost of early intervention services shall not be applied to any
312 contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the
313 insured during the insured's lifetime.

314 6. Include coverage for prescription drugs and devices approved by the United States Food and Drug
315 Administration for use as contraceptives.

316 7. Not deny coverage for any drug approved by the United States Food and Drug Administration for
317 use in the treatment of cancer on the basis that the drug has not been approved by the United States
318 Food and Drug Administration for the treatment of the specific type of cancer for which the drug has
319 been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type
320 of cancer in one of the standard reference compendia.

321 8. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has
322 been approved by the United States Food and Drug Administration for at least one indication and the
323 drug is recognized for treatment of the covered indication in one of the standard reference compendia or
324 in substantially accepted peer-reviewed medical literature.

325 9. Include coverage for equipment, supplies and outpatient self-management training and education,
326 including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using
327 diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional
328 legally authorized to prescribe such items under law. To qualify for coverage under this subdivision,
329 diabetes outpatient self-management training and education shall be provided by a certified, registered or
330 licensed health care professional.

331 10. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive
332 breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy
333 performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish
334 symmetry between the two breasts. For persons previously covered under the plan, there may be no
335 denial of coverage due to preexisting conditions.

336 11. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for
337 annual testing performed by any FDA-approved gynecologic cytology screening technologies.

338 12. Include coverage providing a minimum stay in the hospital of not less than forty-eight hours for
339 a patient following a radical or modified radical mastectomy and twenty-four hours of inpatient care
340 following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast
341 cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage
342 where the attending physician in consultation with the patient determines that a shorter period of
343 hospital stay is appropriate.

344 13. Include coverage (i) to persons age fifty and over and (ii) to persons age forty and over who are
345 at high risk for prostate cancer, according to the most recent published guidelines of the American
346 Cancer Society, for one PSA test in a twelve-month period and digital rectal examinations, all in
347 accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing"
348 means the analysis of a blood sample to determine the level of prostate specific antigen.

349 14. Permit any individual covered under the plan direct access to the health care services of a
350 participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered
351 individual. The plan shall have a procedure by which an individual who has an ongoing special
352 condition may, after consultation with the primary care physician, receive a referral to a specialist for
353 such condition who shall be responsible for and capable of providing and coordinating the individual's
354 primary and specialty care related to the initial specialty care referral. If such an individual's care would
355 most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist.
356 For the purposes of this subdivision, "special condition" means a condition or disease that is (i)
357 life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged
358 period of time. Within the treatment period authorized by the referral, such specialist shall be permitted
359 to treat the individual without a further referral from the individual's primary care provider and may
360 authorize such referrals, procedures, tests, and other medical services related to the initial referral as the
361 individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall
362 have a procedure by which an individual who has an ongoing special condition that requires ongoing
363 care from a specialist may receive a standing referral to such specialist for the treatment of the special
364 condition. If the primary care provider, in consultation with the plan and the specialist, if any,
365 determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a
366 specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to
367 provide written notification to the covered individual's primary care physician of any visit to such

specialist. Such notification may include a description of the health care services rendered at the time of the visit.

15. a. Include provisions allowing employees to continue receiving health care services for a period of up to ninety days from the date of the primary care physician's notice of termination from any of the plan's provider panels.

b. The plan shall notify any provider at least ninety days prior to the date of termination of the provider, except when the provider is terminated for cause.

c. For a period of at least ninety days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

d. Notwithstanding the provisions of clause a, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

e. Notwithstanding the provisions of clause a, any provider shall be permitted by the plan to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861 (dd) (3) (A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

f. A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

16. a. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

b. The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally.

c. For purposes of this subdivision:

"Cooperative group" means a formal network of facilities that collaborate on research projects and have an established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

"FDA" means the Federal Food and Drug Administration.

"Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

"Patient" means a person covered under the plan established pursuant to this section.

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

d. Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

e. The treatment described in clause d shall be provided by a clinical trial approved by:

- (1) The National Cancer Institute;
- (2) An NCI cooperative group or an NCI center;
- (3) The FDA in the form of an investigational new drug application;
- (4) The federal Department of Veterans Affairs; or
- (5) An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

429 f. The facility and personnel providing the treatment shall be capable of doing so by virtue of their
430 experience, training, and expertise.

431 g. Coverage under this section shall apply only if:

432 (1) There is no clearly superior, noninvestigational treatment alternative;

433 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will
434 be at least as effective as the noninvestigational alternative; and

435 (3) The patient and the physician or health care provider who provides services to the patient under
436 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to
437 procedures established by the plan.

438 17. Include coverage providing a minimum stay in the hospital of not less than twenty-three hours
439 for a covered employee following a laparoscopy-assisted vaginal hysterectomy and forty-eight hours for
440 a covered employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally
441 recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the
442 total hours referenced when the attending physician, in consultation with the covered employee,
443 determines that a shorter hospital stay is appropriate.

444 18. (Effective until July 1, 2004) a. Include coverage for biologically based mental illness.

445 b. For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous
446 condition caused by a biological disorder of the brain that results in a clinically significant syndrome
447 that substantially limits the person's functioning; specifically, the following diagnoses are defined as
448 biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective
449 disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder,
450 attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

451 c. Coverage for biologically based mental illnesses shall neither be different nor separate from
452 coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit
453 year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment
454 limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment
455 and coinsurance factors.

456 d. Nothing shall preclude the undertaking of usual and customary procedures to determine the
457 appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this
458 option, provided that all such appropriateness and medical necessity determinations are made in the same
459 manner as those determinations made for the treatment of any other illness, condition or disorder
460 covered by such policy or contract.

461 e. In no case, however, shall coverage for mental disorders provided pursuant to this section be
462 diminished or reduced below the coverage in effect for such disorders on January 1, 1999.

463 C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from
464 such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be
465 deposited in the employee health insurance fund, from which payments for claims, premiums, cost
466 containment programs and administrative expenses shall be withdrawn from time to time. The funds of
467 the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from
468 all other funds of the Commonwealth, and shall be invested and administered solely in the interests of
469 the employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee,
470 or agency shall use or authorize the use of such trust funds for any purpose other than as provided in
471 law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight
472 of the health insurance fund.

473 D. For the purposes of this section:

474 "Peer-reviewed medical literature" means a scientific study published only after having been critically
475 reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal
476 that has been determined by the International Committee of Medical Journal Editors to have met the
477 Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical
478 literature does not include publications or supplements to publications that are sponsored to a significant
479 extent by a pharmaceutical manufacturing company or health carrier.

480 "Standard reference compendia" means the American Medical Association Drug Evaluations, the
481 American Hospital Formulary Service Drug Information, or the United States Pharmacopoeia Dispensing
482 Information.

483 "State employee" means state employee as defined in § 51.1-124.3, employee as defined in
484 § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301
485 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and
486 domestic relations, and district courts of the Commonwealth, interns and residents employed by the
487 School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of
488 the Medical College of Virginia Hospitals *Virginia Commonwealth University Health System Authority*
489 as provided in § 23-50.16:24.

490 E. Provisions shall be made for retired employees to obtain coverage under the above plan. The

Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Personnel and Training which utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan established by the Department shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan. This section shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. 1. Any self-insured group health insurance plan established by the Department of Personnel that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

2. If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescribing physician, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

I. Any plan established by the Department of Personnel and Training requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established by the Department of Personnel and Training shall provide to all covered employees written notice of any benefit reductions during the contract period at least thirty days before such reductions become effective.

K. No contract between a provider and any plan established by the Department of Personnel and Training shall include provisions which require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. 1. The Department of Personnel and Training shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

2. The Ombudsman shall:

a. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

b. Answer inquiries from covered employees by telephone and electronic mail.

c. Provide to covered employees information concerning the state health plans.

d. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

e. Make available, either separately or through an existing Internet web site utilized by the Department of Personnel and Training, information as set forth in clause d and such additional information as he deems appropriate.

f. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

g. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only with that employee's express written consent. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

h. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

i. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. 1. The plan established by the Department of Personnel and Training shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

2. For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

§ 2.1-20.1:2. Health insurance credits for retired state employees.

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.1-20.1, who retired under the Virginia Retirement System, State Police Officers Retirement System, Judicial Retirement System or any retirement system authorized pursuant to § 51.1-126 and who (i) rendered at least fifteen years of total creditable service under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be four dollars per year of creditable service, not to exceed a maximum monthly allowance of \$120, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 2.1-20.1:6 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any retired state employee retired under the provisions of §§ 51.1-156 and 51.1-307 shall receive the maximum credit provided by this section. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.) or 3 (§ 51.1-300 et seq.) of Title 51.1 who elects to defer his retirement pursuant to subsection C of §§ 51.1-153, 51.1-205 or § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. 1. For those retired state employees participating in the state retiree health benefits program, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.) and 3 (§ 51.1-300 et seq.) of Title 51.1. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. For those retired state employees not electing or eligible to participate in the state retiree health benefits program and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the credit and payment for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

3. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), or 3 (§ 51.1-300 et seq.) of Title 51.1 who (i) rendered at least fifteen years of total creditable service as a state employee as defined in § 2.1-20.1 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 2.1-20.1:3 or § 2.1-20.1:4, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection C. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher rendered by the employee.

C. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section to reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.

D. Notwithstanding anything contained in this section to the contrary, the ~~Medical College of Virginia Hospitals~~ *Virginia Commonwealth University Health System* Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to §§ 23-50.16:24.1, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii) served no less than fifteen years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth.

§ 2.1-116. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;

6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;

7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;

8. The presidents, and teaching and research staffs of state educational institutions;

9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;

10. Student employees in institutions of learning, and patient or inmate help in other state institutions;

11. Upon general or special authorization of the Governor, laborers, temporary employees and employees compensated on an hourly or daily basis;

12. County, city, town and district officers, deputies, assistants and employees;

13. The employees of the Virginia Workers' Compensation Commission;

14. The officers and employees of the Virginia Retirement System;

15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History and The Library of Virginia, and approved by the Director of the Department of Personnel and Training as requiring specialized and professional training;

16. Employees of the State Lottery Department;

17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;

18. [Repealed.]

19. Employees of the ~~Medical College of Virginia Hospitals~~ *Virginia Commonwealth University Health System Authority*;

20. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1;

21. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

22. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1;

23. Officers and employees of the Virginia Port Authority;

24. Employees of the Virginia Higher Education Tuition Trust Fund; and

25. Directors of state facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.1-42.2.

§ 2.1-342. Public records to be open to inspection; procedure for requesting records and responding to request; charges.

A. Except as otherwise specifically provided by law, all public records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body which is subject to this chapter and which is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, make one of the following responses:

1. The requested records will be provided to the requester.

2. The requested records will be entirely withheld because their release is prohibited by law or the custodian has exercised his discretion to withhold the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the volume and subject matter of withheld records, and (iii) cite, as to each category of withheld records, the specific Code section which authorizes the withholding of the records.

3. The requested records will be provided in part and withheld in part because the release of part of

675 the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of
676 the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with
677 reasonable particularity the subject matter of withheld portions, and (iii) cite, as to each category of
678 withheld records, the specific Code section which authorizes the withholding of the records. When a
679 portion of a requested record is withheld, the public body may delete or excise only that portion of the
680 record to which an exemption applies and shall release the remainder of the record.

681 4. It is not practically possible to provide the requested records or to determine whether they are
682 available within the five-work-day period. Such response shall be in writing and specify the conditions
683 which make a response impossible. If the response is made within five working days, the public body
684 shall have an additional seven work days in which to provide one of the three preceding responses.

685 C. Any public body may petition the appropriate court for additional time to respond to a request for
686 records when the request is for an extraordinary volume of records and a response by the public body
687 within the time required by this chapter will prevent the public body from meeting its operational
688 responsibilities. Before proceeding with the petition, however, the public body shall make reasonable
689 efforts to reach an agreement with the requester concerning the production of the records requested.

690 D. Subject to the provisions of subsections G and H, no public body shall be required to create a
691 new record if the record does not already exist. However, a public body may abstract or summarize
692 information under such terms and conditions as agreed between the requester and the public body.

693 E. Failure to respond to a request for records shall be deemed a denial of the request and shall
694 constitute a violation of this chapter.

695 F. A public body may make reasonable charges for its actual cost incurred in accessing, duplicating,
696 supplying, or searching for the requested records. No public body shall impose any extraneous,
697 intermediary or surplus fees or expenses to recoup the general costs associated with creating or
698 maintaining records or transacting the general business of the public body. Any duplicating fee charged
699 by a public body shall not exceed the actual cost of duplication. The public body may also make a
700 reasonable charge for the cost incurred in supplying records produced from a geographic information
701 system at the request of anyone other than the owner of the land that is the subject of the request.
702 However, such charges shall not exceed the actual cost to the public body in supplying such records,
703 except that the public body may charge, on a pro rata per acre basis, for the cost of creating
704 topographical maps developed by the public body, for such maps or portions thereof, which encompass
705 a contiguous area greater than fifty acres. All charges for the supplying of requested records shall be
706 estimated in advance at the request of the citizen.

707 In any case where a public body determines in advance that charges for producing the requested
708 records are likely to exceed \$200, the public body may, before continuing to process the request, require
709 the requester to agree to payment of a deposit not to exceed the amount of the advance determination.
710 The deposit shall be credited toward the final cost of supplying the requested records. The period within
711 which the public body shall respond under this section shall be tolled for the amount of time that
712 elapses between notice of the advance determination and the response of the requester.

713 G. Public records maintained by a public body in an electronic data processing system, computer
714 database, or any other structured collection of data shall be made available to a requester at a reasonable
715 cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases
716 are combined or contain exempt and nonexempt records, the public body may provide access to the
717 exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as
718 provided by this chapter.

719 H. Every public body of state government shall compile, and annually update, an index of computer
720 databases which contains at a minimum those databases created by them on or after July 1, 1997.
721 "Computer database" means a structured collection of data or records residing in a computer. Such index
722 shall be a public record and shall include, at a minimum, the following information with respect to each
723 database listed therein: a list of data fields, a description of the format or record layout, the date last
724 updated, a list of any data fields to which public access is restricted, a description of each format in
725 which the database can be copied or reproduced using the public body's computer facilities, and a
726 schedule of fees for the production of copies in each available form. The form, context, language, and
727 guidelines for the indices and the databases to be indexed shall be developed by the Director of the
728 Department of Information Technology in consultation with the Librarian of Virginia and the State
729 Archivist. The public body shall not be required to disclose its software security, including passwords.

730 Public bodies shall produce nonexempt records maintained in an electronic database in any tangible
731 medium identified by the requester, including, where the public body has the capability, the option of
732 posting the records on a website or delivering the records through an electronic mail address provided
733 by the requester, if that medium is used by the public body in the regular course of business. No public
734 body shall be required to produce records from an electronic database in a format not regularly used by
735 the public body. However, the public body shall make reasonable efforts to provide records in any
736 format under such terms and conditions as agreed between the requester and public body, including the

payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation or compilation of a new public record.

§ 2.1-344. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters concerning any student of any public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. The investing of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation which has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign person and accepted by a public institution of higher education shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

10. Discussion or consideration of honorary degrees or special awards.

11. Discussion or consideration of tests, examinations or other records excluded from this chapter pursuant to § 2.1-342.01 A 11.

12. Discussion, consideration or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the

798 terms, conditions, and provisions of a siting agreement if the governing body in open meeting finds that
799 an open meeting will have an adverse effect upon the negotiating position of the governing body or the
800 establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions
801 with the applicant or its representatives may be conducted in a closed meeting.

802 14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
803 activity and estimating general and nongeneral fund revenues.

804 15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to
805 § 2.1-342.01 A 5, and those portions of disciplinary proceedings by any regulatory board within the
806 Department of Professional and Occupational Regulation or Department of Health Professions conducted
807 pursuant to § 9-6.14:11 or § 9-6.14:12 during which the board deliberates to reach a decision.

808 16. Discussion, consideration or review of State Lottery Department matters related to proprietary
809 lottery game information and studies or investigations exempted from disclosure under subdivisions 37
810 and 38 of subsection A of § 2.1-342.01.

811 17. Those portions of meetings by local government crime commissions where the identity of, or
812 information tending to identify, individuals providing information about crimes or criminal activities
813 under a promise of anonymity is discussed or disclosed.

814 18. Discussion, consideration, review and deliberations by local community corrections resources
815 boards regarding the placement in community diversion programs of individuals previously sentenced to
816 state correctional facilities.

817 19. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
818 of, or information tending to identify, any prisoner who (i) provides information about crimes or
819 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
820 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
821 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

822 20. Discussion of plans to protect public safety as it relates to terrorist activity.

823 21. In the case of corporations organized by the Virginia Retirement System, discussion or
824 consideration of (i) proprietary information provided by, and financial information concerning,
825 coventurers, partners, lessors, lessees, or investors and (ii) the condition, acquisition, disposition, use,
826 leasing, development, coventuring, or management of real estate the disclosure of which would have a
827 substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the
828 corporation or subsidiary.

829 22. Those portions of meetings in which individual child death cases are discussed by the State Child
830 Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which
831 individual child death cases are discussed by a regional or local child fatality review team established
832 pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed
833 by family violence fatality review teams established pursuant to § 32.1-283.3.

834 23. Those portions of meetings of the University of Virginia Board of Visitors and those portions of
835 meetings of any persons to whom management responsibilities for the University of Virginia Medical
836 Center have been delegated, in which there is discussed proprietary, business-related information
837 pertaining to the operations of the University of Virginia Medical Center, including its business
838 development or marketing strategies and its activities with existing or future joint venturers, partners, or
839 other parties with whom the University of Virginia Medical Center has formed, or forms, any
840 arrangement for the delivery of health care, if disclosure of such information would adversely affect the
841 competitive position of the Medical Center.

842 24. In the case of the ~~Medical College of Virginia Hospitals~~ *Virginia Commonwealth University*
843 *Health System Authority*, discussion or consideration of any of the following: the acquisition or
844 disposition of real or personal property where disclosure would adversely affect the bargaining position
845 or negotiating strategy of the Authority; operational plans that could affect the value of such property,
846 real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests
847 and fund-raising activities; grants and contracts for services or work to be performed by the Authority;
848 marketing or operational strategies where disclosure of such strategies would adversely affect the
849 competitive position of the Authority; members of its medical and teaching staffs and qualifications for
850 appointments thereto; and qualifications or evaluations of other employees.

851 25. Those portions of the meetings of the Intervention Program Committee within the Department of
852 Health Professions to the extent such discussions identify any practitioner who may be, or who actually
853 is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

854 26. Meetings or portions of meetings of the Board of the Virginia Higher Education Tuition Trust
855 Fund wherein personal information, as defined in § 2.1-379, which has been provided to the Board or its
856 employees by or on behalf of individuals who have requested information about, applied for, or entered
857 into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et
858 seq.) of Title 23 is discussed.

859 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a

closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation or motion which shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Intervention Program Committee within the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least thirty days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 23-50.16:1. Short title.

This chapter shall be known and may be cited as the " ~~Medical College of Virginia Hospitals~~ *Virginia Commonwealth University Health System Authority Act.*"

§ 23-50.16:3. Authority created; purposes.

A. There is hereby created as a public body corporate and as a political subdivision of the Commonwealth, the ~~Medical College of Virginia Hospitals~~ *Virginia Commonwealth University Health System Authority*, referred to in this chapter as the Authority, with such public and corporate powers as are set forth in this chapter. The Authority is hereby constituted a public instrumentality, exercising public and essential governmental functions with the power and purpose to provide for the health, welfare, convenience, knowledge, benefit and prosperity of the residents of the Commonwealth and such other persons who might be served by the Authority by delivering and supporting the delivery of medical care and related services to such residents and persons, by providing educational opportunities in the medical field and related disciplines, by conducting and facilitating research in the medical field and related disciplines, and by enhancing the delivery of health care and related services to the Commonwealth's indigent population.

B. The Authority is authorized to provide, promote, support and sponsor education, public knowledge and scientific research in medicine, public health and related fields; to administer programs to assist in the delivery of medical and related services to the citizens of the Commonwealth and others; and to participate in and administer federal, state and local programs affecting, supporting or carrying out any of its purposes. The Authority is further authorized to exercise independently the powers conferred by this chapter in furtherance of its corporate and public purposes, and the Authority is directed to undertake the operation of teaching hospitals and related facilities and to maintain and, as appropriate, to expand the same, all for the benefit of the Commonwealth, its citizens and such other persons who might be served by the Authority.

§ 23-50.16:4. Definitions.

As used in this chapter, the following terms have the following meanings, unless the context requires otherwise:

"Authority" means the ~~Medical College of Virginia Hospitals~~ *Virginia Commonwealth University Health System Authority*.

"Board" means the Board of Directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates or other evidences of indebtedness or deferred purchase financing arrangements.

"Costs" means costs of construction, reconstruction, renovation, site work and acquisition of lands, structures, rights-of-way, franchises, easements and other property rights and interests; costs of demolition, removal or relocation of buildings or structures; costs of labor, materials, machinery and all other kinds of equipment; financing charges; costs of engineering and inspections; costs of financial, legal and accounting services; costs of plans, specifications, studies, and surveys; estimates of costs and of revenues; feasibility studies and administrative expenses, including administrative expenses during the start-up of any project; costs of issuance of bonds, including printing, engraving, advertising, legal and other similar expenses; credit enhancement and liquidity facility fees; fees for interest rate caps, collars, swaps or other financial derivative products; interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; provisions for working capital to be used in connection with any project; redemption premiums, obligations purchased to provide for the payment of bonds being refunded and other costs necessary or incident to

921 refunding of bonds; operating and maintenance reserve funds, debt reserve funds and other reserves for
 922 the payment of principal and interest on bonds; and all other expenses necessary, desirable or incidental
 923 to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition or
 924 financing of projects or other facilities or equipment appropriate for carrying out the purposes of this
 925 chapter and the placing of the same in operation; or the refunding of bonds.

926 "Director" "Chief executive officer" means the ~~director~~ *chief executive officer* of the ~~Medical College~~
 927 ~~of Virginia Hospitals~~ *Virginia Commonwealth University Health System Authority*.

928 "Hospital facilities" means all property or rights in property, real and personal, tangible and
 929 intangible, including all facilities suitable for providing hospital and health care services and including
 930 any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances,
 931 lands, rights in land, furnishings, landscaping, approaches, roadways and other related and supporting
 932 facilities, now or hereafter owned, leased, operated or used, in whole or in part, by Virginia
 933 Commonwealth University as part of, or in connection with, the ~~Medical College of Virginia Hospitals~~
 934 *Virginia Commonwealth University Health System* in the normal course of its operations as a teaching,
 935 research and medical treatment facility.

936 "Hospital obligations" means all debts or other obligations, contingent or certain, owing to any
 937 person or other entity on the transfer date, arising out of the operation of the ~~Medical College of~~
 938 ~~Virginia Hospitals~~ *Virginia Commonwealth University Health System* as a medical treatment facility or
 939 arising out of the financing or refinancing of hospital facilities, and including all bonds and other debts
 940 for the purchase of goods and services, whether or not delivered, and obligations for the delivery of
 941 services, whether or not performed.

942 "Project" means any health care, research or educational facility or equipment necessary or
 943 convenient to or consistent with the purposes of the Authority, whether or not owned by the Authority,
 944 including, without limitation, hospitals; nursing homes; continuing care facilities; self-care facilities;
 945 wellness and health maintenance centers; medical office facilities; clinics; out-patient clinics; surgical
 946 centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices;
 947 facilities for the residence or care of the elderly, the handicapped, or the chronically ill; residential
 948 facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed,
 949 or infirm persons or the prevention of disease or maintenance of health; colleges, schools or divisions
 950 offering undergraduate or graduate programs for the health professions and sciences and such other
 951 branches of learning as may be appropriate, together with research, training, and teaching facilities; all
 952 related and supporting facilities and equipment necessary or desirable in connection therewith or
 953 incidental thereto; or equipment alone, including, without limitation, parking, kitchen, laundry,
 954 laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational
 955 facilities; power plants and equipment; storage space; mobile medical facilities; vehicles; air transport
 956 equipment and other equipment necessary or desirable for the transportation of medical equipment,
 957 medical personnel or patients; and all lands, buildings, improvements, approaches and appurtenances
 958 necessary or desirable in connection with or incidental to any project.

959 "Transfer date" means a date or dates agreed to by the Board of Visitors of Virginia Commonwealth
 960 University and the Authority for the transfer of employees to the Authority and for the transfer of
 961 hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital
 962 obligations by the Authority, which dates for the various transfers and the various assumptions may be
 963 different, but in no event shall any date be later than June 30, 1997.

964 "University" means Virginia Commonwealth University.

965 § 23-50.16:5. Board of Directors; appointment; officers; employees.

966 A. The Authority shall be governed by a Board of Directors consisting of ~~sixteen~~ *twenty-one*
 967 members as follows: four members to be appointed by the Governor; ~~three~~ *six* members, *including three*
 968 *physician faculty members*, to be appointed by the Speaker of the House of Delegates; ~~two~~ *four*
 969 *members, including two physician faculty members*, to be appointed by the Senate Committee on
 970 Privileges and Elections; five members of the Board of Visitors of Virginia Commonwealth University,
 971 to be appointed by the Rector, all of whom shall also be members of the Board of Visitors of ~~Virginia~~
 972 ~~Commonwealth~~ *the University* at all times while serving on the Board; ~~and the President of Virginia~~
 973 ~~Commonwealth~~ *the University* and the ~~Dean of the Virginia Commonwealth University School of~~
 974 ~~Medicine~~ *Vice President for Health Sciences of the University, or the person who holds such other title*
 975 *as subsequently may be established by the Board of Visitors of the University for the chief academic and*
 976 *administrative officer for the Health Sciences Campus of the University, who both of whom shall serve*
 977 *as ex officio voting members during their respective terms of office. The five physician faculty members*
 978 *shall be faculty members of Virginia Commonwealth University with hospital privileges at Medical*
 979 *College of Virginia Hospitals at all times while serving on the Board.*

980 Of the *non-faculty physician* appointments to be made on and after July 1, 1996, two gubernatorial
 981 appointees shall be appointed for three-year terms, one for a two-year term, and one for a one-year term;
 982 one appointee each by the Speaker of the House of Delegates and the Senate Committee on Privileges

and Elections shall be appointed for three-year terms, and one each for two-year terms; one appointee by the Speaker of the House shall be appointed for a one-year term; and two Board of Visitors members shall be appointed for three-year terms, two for two-year terms, and one for a one-year term. Thereafter, all appointments shall be for terms of three years each, except appointments to fill unexpired vacancies which shall be made for the remainder of the unexpired terms.

Of the faculty physician appointments to be made on and after July 1, 2000, the three appointees of the Speaker of the House of Delegates shall be appointed for initial terms of one, two and three years, respectively; the two appointees of the Senate Committee on Privileges and Elections shall be appointed for initial terms of two and three years, respectively. Thereafter, all appointments shall be for terms of three years each, except appointments to fill unexpired vacancies which shall be made for the remainder of the unexpired terms. The Speaker of the House of Delegates and the Senate Committee on Privileges and Elections shall appoint faculty physicians from lists submitted by the faculty physicians of the School of Medicine of Virginia Commonwealth University through the Vice President for Health Sciences of the University. The initial list submitted to the Speaker of the House of Delegates shall be a list of not less than six names. The initial list submitted to the Senate Committee on Privileges and Elections shall be a list of not less than four names. Thereafter, the list shall be a list of not less than two names for each expired or unexpired vacancy that occurs.

No person shall be eligible to serve more than two consecutive full three-year terms as an appointed member, but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, or after one year following the expiration of a second full three-year term, two additional three-year terms may be served by a member if so appointed. The terms of members serving by virtue of their office shall expire upon termination of their holding such office. All members shall continue to hold office until their successors have been appointed and have qualified.

All appointed members, other than those who are members of the Board of Visitors, shall have demonstrated experience or expertise in business, health-care management or legal affairs. Immediately after their appointments, members shall enter upon the performance of their duties. The Board members appointed from the Board of Visitors and the ex officio members shall not vote on matters that would require them to breach their fiduciary duties to the University or to the Authority.

B. All appointments, including the initial appointments to the Board and appointments to fill vacancies, are subject to confirmation by the affirmative vote of a majority of those voting in each house of the General Assembly if in session when such appointments are made and, if not in session, at its first regular session subsequent to such appointment. Any member whose nomination is subject to confirmation during a regular session of the General Assembly shall be deemed terminated when the General Assembly rejects the nomination or when it adjourns without confirming the nomination, whichever is earlier. No such termination shall affect the validity of any action taken by such member prior to such termination.

C. A Board member may be removed for malfeasance, misfeasance, incompetence or gross neglect of duty by the individual or entity that appointed him or, if such appointing individual no longer holds the office creating the right of appointment, by the current holder of that office.

D. The Board of Directors of the Authority shall elect annually one of their number as chairman and another as vice-chairman. The Board shall also elect a secretary and treasurer and such assistant secretaries and assistant treasurers as the Board may authorize for terms determined by the Board, each of whom may or may not be a member of the Board. The same person may serve as both secretary and treasurer. The Board may also appoint an executive committee and other standing or special committees and prescribe their duties and powers, and any executive committee may exercise all such powers and duties of the Board under this chapter as the Board may delegate.

E. The Board may provide for the appointment, employment and removal of a director, officers, employees and agents of the Authority, including engineers, consultants, lawyers and accountants, for such compensation and upon other terms as the Board deems appropriate.

F. The Board shall meet at least four times each year and may hold such special meetings as it deems appropriate. The Board may adopt, amend and repeal such rules, regulations, procedures and bylaws, not contrary to law or inconsistent with this chapter, as it deems expedient for its own governance and for the governance and management of the Authority. A majority of the Board shall constitute a quorum for meetings, and the Board may act by a majority of those present at any meeting.

G. Board members shall be entitled to reimbursement for necessary and reasonable travel and other expenses incurred while engaged in the performance of their duties.

H. The provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.) shall apply to the members of the Board and the employees of the Authority.

§ 23-50.16:7. Appointment, salary and powers of the Chief Executive Officer.

A. The Authority shall be under the immediate supervision and direction of a ~~Director~~ Chief Executive

1044 *Officer, subject to the policies and direction established by the Board. The ~~Director~~ Chief Executive*
1045 *Officer shall be appointed by and serve at the pleasure of the Board. The ~~Director~~ shall receive a salary*
1046 *as determined by the Board the person who holds the title of Vice President for Health Sciences of*
1047 *Virginia Commonwealth University, or such other title as subsequently may be established by the Board*
1048 *of Visitors of the University for the chief academic and administrative officer for the Health Sciences*
1049 *Campus of the University, subject to the following: notwithstanding any other provision of law to the*
1050 *contrary, the selection and removal of the Chief Executive Officer, as well as the terms and*
1051 *appointment, including salary, shall be made jointly by the Board and the Board of Visitors of the*
1052 *University at a joint meeting of the Board and the Board of Visitors of the University upon a vote of a*
1053 *majority of the members of each board, present and voting at the aforementioned joint meeting, acting*
1054 *separately in accordance with applicable provisions of law.*

1055 B. The ~~Director~~ Chief Executive Officer shall devote his full time to the performance of his official
1056 duties and shall not be engaged in any other profession or occupation.

1057 C. The ~~Director~~ Chief Executive Officer shall supervise and administer the operation of the Authority
1058 in accordance with the provisions of this chapter.

1059 § 23-232. Establishment authorized; employment of officers.

1060 A. The governing board of each public institution of higher learning named in § 23-14, hereafter
1061 sometimes referred to in this chapter as "institution," is authorized to establish a campus police
1062 department and to employ campus police officers and auxiliary forces upon appointment as provided in
1063 §§ 23-233 and 23-233.1. Such employment shall be governed by the Virginia Personnel Act, as set forth
1064 in Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.

1065 B. The ~~Medical College of Virginia Hospitals~~ Virginia Commonwealth University Health System
1066 Authority shall be authorized to employ police officers and auxiliary forces as provided in this chapter
1067 and in § 23-50.15:11, except that the employment of such officers and forces shall not be governed by
1068 the Virginia Personnel Act.

1069 § 32.1-85. Adoption.

1070 A formulary of another state or of any agency of the United States, a formulary in use at the
1071 University of Virginia Hospital or the ~~Medical College of Virginia Hospitals~~ Virginia Commonwealth
1072 University Health System Authority or any combination of such formularies may be adopted for use as
1073 the Virginia Voluntary Formulary pending the adoption of an original Formulary. Not later than July 1,
1074 1981, the Council shall commence to compile an original Formulary.

1075 § 32.1-276.3. (Effective until July 1, 2003) Definitions.

1076 As used in this chapter:

1077 "Board" means the Board of Health.

1078 "Consumer" means any person (i) whose occupation is other than the administration of health
1079 activities or the provision of health services, (ii) who has no fiduciary obligation to a health care
1080 institution or other health agency or to any organization, public or private, whose principal activity is an
1081 adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering
1082 of health services.

1083 "Health care provider" means (i) a general hospital, ordinary hospital, outpatient surgical hospital,
1084 nursing home or certified nursing facility licensed or certified pursuant to Article 1 of Chapter 5
1085 (§ 32.1-123 et seq.) of Title 32.1; (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8
1086 (§ 37.1-179 et seq.) of Title 37.1; (iii) a hospital operated by the Department of Mental Health, Mental
1087 Retardation and Substance Abuse Services; (iv) a hospital operated by the University of Virginia or the
1088 ~~Medical College of Virginia Hospitals~~ Virginia Commonwealth University Health System Authority; (v)
1089 any person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29
1090 (§ 54.1-2900 et seq.) of Title 54.1; or (vi) any person licensed to furnish health care policies or plans
1091 pursuant to Chapter 34 (§ 38.2-3400 et seq.), Chapter 42 (§ 38.2-4200), or Chapter 43 (§ 38.2-4300) of
1092 Title 38.2. In no event shall such term be construed to include continuing care retirement communities
1093 which file annual financial reports with the State Corporation Commission pursuant to Chapter 49
1094 (§ 38.2-4900 et seq.) of Title 38.2 or any nursing care facility of a religious body which depends upon
1095 prayer alone for healing.

1096 "Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1
1097 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et
1098 seq.) of Title 37.1, a hospital operated by the Department of Mental Health, Mental Retardation and
1099 Substance Abuse Services for the care and treatment of the mentally ill, or a hospital operated by the
1100 University of Virginia or the ~~Medical College of Virginia Hospitals~~ Virginia Commonwealth University
1101 Health System Authority.

1102 "Nonprofit organization" means a nonprofit, tax-exempt health data organization with the
1103 characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this
1104 chapter.

1105 "System" means the Virginia Patient Level Data System.

§ 51.1-126.1. Certain employees of teaching hospitals.

A. Any teaching hospital affiliated with an institution of higher education, other than the Medical College of Virginia Hospitals Virginia Commonwealth University Health System Authority or the University of Virginia Medical Center, may establish a retirement plan covering in whole or in part its employees who are health care providers, as determined by the Department of Personnel and Training pursuant to § 2.1-116, and is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in the retirement system established by this chapter. Any such alternative retirement plan shall not become effective until July 1, 1991, or any time thereafter, as determined by such teaching hospital. Any health care provider employed by such teaching hospital on or after July 1, 1991, may make an irrevocable election to participate in either the retirement plan established by this chapter or the plan provided by the teaching hospital, in accordance with guidelines established by the Virginia Retirement System. The election herein provided shall, as to any health care provider employed after the alternative retirement plan implementation date, be exercised not later than thirty-one days from the time of entry upon the performance of his duties.

B. No health care provider employed by a teaching hospital who is an active member of a plan established under this section shall also be an active member of the retirement system or a beneficiary other than a contingent annuitant.

C. The contribution by the Commonwealth to any other retirement plan established on behalf of health care providers as provided in subsection A shall be the contribution by the Commonwealth which would be required if the health care provider were a member of the retirement system or eight percent of creditable compensation, whichever is less.

D. If the institution of higher education with which the teaching hospital is affiliated has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established under this section shall offer the same investment opportunities as are available to the participants of the plan established under § 51.1-126.

E. The Virginia Retirement System shall develop policies and procedures for the administration of the retirement plan established under this section.