

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 271

An Act to amend and reenact §§ 2.2-2905 and 37.1-42.2 of the Code of Virginia, relating to directors of state facilities.

[H 840]

Approved April 1, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2905 and 37.1-42.2 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2905. 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 Human Resource Management 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. Employees of the Virginia Commonwealth University Health System Authority;
19. 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 the State Grievance Procedure (§ 2.2-3000 et seq.);
20. 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;
21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
22. Officers and employees of the Virginia Port Authority;
23. Employees of the Virginia College Savings Plan; and
24. 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. *Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.).*

§ 37.1-42.2. Employment and qualifications of directors of state facilities.

The Commissioner shall employ a director for each state facility who shall be skilled in hospital management and administration and meet such requirements as may be determined by the

Commissioner, but need not be a physician.

Any director of a state facility employed or reemployed by the Commissioner after July 1, 1999 2002, ~~shall~~ *may* be employed *as a classified employee or* under a contract that specifies the terms and conditions of employment, including, but not limited to, compensation, benefits, duties and responsibilities, performance standards, evaluation criteria and contract termination and renewal provisions. The length of such employment contracts shall be two years, with provisions for annual renewals thereafter, based on the performance of the incumbent. Any director of a state facility employed by the Commissioner before July 1, 1999, may elect to continue his current employment status subject to the provisions of the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, or he may choose to be employed under such a contract. Any director of a state facility employed under such an employment contract shall be exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, *yet shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.)*. Personnel actions under this exemption shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation.

Each director shall be responsible to the Commissioner or his designee for the safe, efficient, and effective operation of his state facility. Each director shall notify the Director of the Department for Rights of Virginians with Disabilities, pursuant to § 51.5-37.1, in writing within forty-eight hours of critical incidents or deaths of patients or residents of facilities. Each director shall take any actions consistent with law necessary to ensure that his facility complies with all applicable federal and state statutes, regulations, policies and agreements. The Commissioner shall evaluate the performance of each director of a state facility at least annually.

Whenever any act required by law to be performed by a director employed hereunder constitutes the practice of medicine as defined in § 54.1-2900, and such director is not a licensed physician, such act shall be performed by a licensed physician designated by the director.