

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 514

*An Act to amend and reenact § 32.1-126 of the Code of Virginia, relating to disputed periodic nursing facility surveys.*

[S 629]

Approved April 5, 2002

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

**1. That § 32.1-126 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-126. Commissioner to inspect and to issue licenses to or assure compliance with certification requirements for hospitals, nursing homes and certified nursing facilities; notice of denial of license; consultative advice and assistance.

A. Pursuant to this article, the Commissioner shall issue licenses to, and assure compliance with certification requirements for hospitals and nursing homes, and assure compliance with certification requirements for facilities owned or operated by agencies of the Commonwealth as defined in subdivision (vi) of § 32.1-124, which after inspection are found to be in compliance with the provisions of this article and with all applicable state and federal regulations. The Commissioner shall notify by certified mail or by overnight express mail any applicant denied a license of the reasons for such denial.

B. The Commissioner shall cause each and every hospital, nursing home, and certified nursing facility to be inspected periodically, but not less often than biennially, in accordance with the provisions of this article and regulations of the Board.

~~To the extent not~~ *Unless expressly* prohibited by federal statute or regulation, the findings of the Commissioner, with respect to periodic surveys of nursing facilities conducted pursuant to the Survey, Certification, and Enforcement Procedures set forth in 42 C.F.R. Part 488, shall be considered case decisions pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to ~~Article 3 (§ 2.2-4019 et seq.) of Chapter 40 of Title 2.2~~ *the Department's informal dispute resolution procedures, or, at the option of the Department or the nursing facility, the formal fact-finding procedures under § 2.2-4020. The Commonwealth shall be deemed the proponent for purposes of § 2.2-4020.* Further, notwithstanding the provisions of clause (iii) of § 2.2-4025, such case decisions shall also be subject to the right to court review pursuant to Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

C. The Commissioner may, in accordance with regulations of the Board, provide for consultative advice and assistance, with such limitations and restrictions as he deems proper, to any person who intends to apply for a hospital or nursing home license or nursing facility certification.