

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 482

An Act to amend and reenact § 54.1-2961 of the Code of Virginia, relating to the Board of Medicine's guidelines for ethical practice in the performance of surgery and other invasive procedures.

[H 1706]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2961 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2961. Interns and residents in hospitals.

A. Interns and residents holding temporary licenses may be employed in a legally established and licensed hospital, medical school or other organization operating an approved graduate medical education program when their practice is confined to persons who are bona fide patients within the hospital or other organization or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated with the graduate medical education program.

B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in subsection D and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program. No intern or resident holding a temporary license may be employed by any hospital or other organization operating an approved graduate medical education program unless he has completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice.

C. No intern or resident holding a temporary license shall serve in any hospital or other organization operating an approved graduate medical education program in this Commonwealth for longer than the time prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict with existing law and require such reports from hospitals or other organizations in the Commonwealth as may be necessary to carry out the provisions of this section.

D. Such employment shall be a part of an internship or residency training program approved by the Accreditation Council for Graduate Medical Education or American Osteopathic Association or American Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be employed as an intern or resident by any hospital or other organization operating an approved graduate medical education program. The Board may determine the extent and scope of the duties and professional services which may be rendered by interns and residents.

E. The Board of Medicine shall adopt guidelines concerning the ethical practice of *physicians practicing in emergency rooms, surgeons, and surgery* interns and residents *practicing in hospitals, particularly hospital emergency rooms, or other organizations operating graduate medical education programs*. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of Virginia Commonwealth University, the University of Virginia School of Medicine, ~~and~~ the Eastern Virginia Medical School, *the Medical Society of Virginia, and the Virginia Hospital and Health Care Association* shall cooperate with the Board in the development of these guidelines.

The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from all patients *or from the next of kin or legally authorized representative, to the extent practical under the circumstances in which medical care is being rendered, when the patient is incapable of making an informed decision, after such patients are or other persons have been informed as to which surgeons* physicians, residents, or interns will perform the surgery *or other invasive procedure*; (ii) except in emergencies and other unavoidable situations, the need, consistent with the informed consent, for a ~~surgeon~~ *an attending physician* to be present during the surgery *or other invasive procedure*; ~~and~~ (iii) policies to avoid situations, unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant hospital, medical school or other organization operating the graduate medical education program, in which a surgeon, intern or resident represents that he will perform a surgery *or other invasive procedure* ~~which~~ *that* he then fails to perform; *and* (iv) *policies addressing informed consent and the ethics of appropriate care of patients in emergency rooms. Such policies shall take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative to extent practical under the circumstances in which medical care is being rendered.*

F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.