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HOUSE BILL NO. 1803

Offered January 12, 2005

Prefiled January 5, 2005

A BILL to amend and reenact §§ 2.2-212, as it is effective and as it shall become effective, 2.2-214, 2.2-1117, 2.2-1118, 2.2-2664, 2.2-3401, 2.2-3402, 2.2-4344, 8.01-66.9, 8.01-384.1, 15.2-1805, 19.2-164.1, 22.1-214, 22.1-217, 22.1-217.01, 22.1-253.13:5, 22.1-347, 32.1-45.1, 32.1-64.1, 32.1-102.1, 32.1-127.1:04, 37.1-67.5, 37.1-197, 37.1-197.1, 37.1-248, 46.2-221, 51.1-124.3, 51.5-1, 51.5-2, 51.5-12.2, 51.5-12.3, 51.5-12.4, 51.5-31, 51.5-39.2, 51.5-39.7, 51.5-47, 51.5-49, 51.5-50, 51.5-52, 51.5-60, 51.5-105, 56-484.4, 58.1-439.11, 58.1-609.1, 58.1-3703, and 58.1-3840 of the Code of Virginia; to amend the Code of Virginia by adding in Title 51.5 a chapter numbered 6.1, consisting of articles numbered 1 through 6, containing sections numbered 51.5-30.1 through 51.5-30.36, and in Chapter 12 an article numbered 3.1, consisting of sections numbered 51.5-77.1 through 51.5-77.10; and to repeal Chapters 2 (§§ 51.5-3 through 51.5-7), 3 (§§ 51.5-8 through 51.5-12), 4 (§§ 51.5-13 through 51.5-14.1), 5 (§§ 51.5-15 through 51.5-22), and 6 (§§ 51.5-23 through 51.5-30), Article 3 of Chapter 12 (§§ 51.5-64 through 51.5-77), and Chapter 13 (§§ 51.5-106 through 51.5-114) of Title 51.5 of the Code of Virginia, relating to persons with disabilities; agency reorganization.

Patrons—Landes, Athey, Cox, Gear, Hargrove, Jones, S.C., Lingamfelter, Louderback, Marshall, D.W., Saxman, Scott, E.T., Suit, Weatherholtz and Wright

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-212, as it is effective and as it shall become effective, 2.2-214, 2.2-1117, 2.2-1118, 2.2-2664, 2.2-3401, 2.2-3402, 2.2-4344, 8.01-66.9, 8.01-384.1, 15.2-1805, 19.2-164.1, 22.1-214, 22.1-217, 22.1-217.01, 22.1-253.13:5, 22.1-347, 32.1-45.1, 32.1-64.1, 32.1-102.1, 32.1-127.1:04, 37.1-67.5, 37.1-197, 37.1-197.1, 37.1-248, 46.2-221, 51.1-124.3, 51.5-1, 51.5-2, 51.5-12.2, 51.5-12.3, 51.5-12.4, 51.5-31, 51.5-39.2, 51.5-39.7, 51.5-47, 51.5-49, 51.5-50, 51.5-52, 51.5-60, 51.5-105, 56-484.4, 58.1-439.11, 58.1-609.1, 58.1-3703, and 58.1-3840 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 51.5 a chapter numbered 6.1, consisting of articles numbered 1 through 6, containing sections numbered 51.5-30.1 through 51.5-30.36, and in Chapter 12 an article numbered 3.1, consisting of sections numbered 51.5-77.1 through 51.5-77.10, as follows:

§ 2.2-212. (Effective until July 1, 2006) Agencies for which responsible.

The position of Secretary of Health and Human Resources (the Secretary) is created. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, ~~Department for the Blind and Vision Impaired~~, Department of Health Professions, Department for the Aging, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative *and Disability* Services, Department of Social Services, Department of Medical Assistance Services, Advisory Council on the Future of Nursing in Virginia, Child Day-Care Council, ~~Virginia Department for the Deaf and Hard-of-Hearing~~, and the Office of Comprehensive Services for Youth and At-Risk Youth and Families. The Governor may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.

Unless the Governor expressly reserves such power to himself, the Secretary shall (i) coordinate the work of state agencies to implement the long-term care policy of the Commonwealth and (ii) serve as the lead Secretary for the Comprehensive Services Act for At-Risk Youth and Families, working with the Secretary of Education and the Secretary of Public Safety to facilitate interagency service development and implementation, communication and cooperation.

§ 2.2-212. (Effective July 1, 2006) Position established; agencies for which responsible; additional powers.

The position of Secretary of Health and Human Resources (the Secretary) is created. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, ~~Department for the Blind and Vision Impaired~~, Department of Health Professions, Department for the Aging, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative *and Disability* Services, Department of Social Services, Department of Medical Assistance Services, Child Day-Care Council, ~~Virginia Department for the Deaf and Hard-of-Hearing~~, and the Office of Comprehensive Services for Youth and At-Risk Youth and

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58 Families. The Governor may, by executive order, assign any other state executive agency to the
59 Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.

60 Unless the Governor expressly reserves such power to himself, the Secretary shall (i) coordinate the
61 work of state agencies to implement the long-term care policy of the Commonwealth and (ii) serve as
62 the lead Secretary for the Comprehensive Services Act for At-Risk Youth and Families, working with
63 the Secretary of Education and the Secretary of Public Safety to facilitate interagency service
64 development and implementation, communication and cooperation.

65 § 2.2-214. Responsibility of certain agencies within the Secretariat; review of regulations.

66 The Boards of Health, Mental Health, Mental Retardation and Substance Abuse Services, Social
67 Services, and Medical Assistance Services and the Department of Rehabilitative *and Disability* Services
68 shall review their regulations and policies related to service delivery in order to ascertain and eliminate
69 any discrimination against individuals infected with human immunodeficiency virus.

70 § 2.2-1117. Purchases from Department of Rehabilitative and Disability Services; violation.

71 Unless exempted by the Division, all such services, articles and commodities as (i) are required for
72 purchase by the Division or by any person authorized to make purchases on behalf of the
73 Commonwealth and its departments, agencies and institutions; (ii) are performed or produced by
74 persons, or in schools or workshops, under the supervision of the ~~Virginia Department for the Blind and~~
75 ~~Vision Impaired of Rehabilitative and Disability Services~~; (iii) are available for sale by such Department;
76 and (iv) conform to the standards established by the Division shall be purchased from such Department
77 at the fair market price without competitive procurement. When convenience or emergency requires it,
78 the Commissioner of the Department ~~for the Blind and Vision Impaired of Rehabilitative and Disability~~
79 ~~Services~~ may, upon request of the purchasing officer, release the purchasing officer from the obligations
80 of this section. Any purchasing officer convicted of a violation of this section shall be guilty of a Class
81 1 misdemeanor.

82 § 2.2-1118. Purchases from nonprofit sheltered workshops of Virginia serving the handicapped.

83 A. The Division shall publish annually a list of materials, supplies, services and equipment which, in
84 the opinion of the Division, would be beneficial to the Commonwealth to procure from a sheltered
85 workshop. The list shall exclude items currently produced by schools or workshops under the
86 supervision of the ~~Virginia Department for the Blind and Vision Impaired of Rehabilitative and~~
87 ~~Disability Services~~ or by inmates confined in state correctional institutions.

88 B. Any item or service included on the list required by subsection A may be purchased by the
89 Division from nonprofit sheltered workshops serving the handicapped without competitive procurement,
90 if the Division is satisfied that the items and services (i) can be purchased within ~~ten~~ 10 percent of their
91 fair market value, (ii) will be of acceptable quality, and (iii) can be produced in sufficient quantities
92 within the time required.

93 C. Nothing in this section shall prohibit the Division from amending the list required under
94 subsection A by adding categories to the list after it has been published.

95 § 2.2-2664. Virginia Interagency Coordinating Council; purpose; membership; duties.

96 A. The Virginia Interagency Coordinating Council (the Council) is established as an advisory council,
97 within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the
98 Council shall be to promote and coordinate early intervention services in the Commonwealth.

99 B. The membership and operation of the Council shall be as required by Part H of the Individuals
100 with Disabilities Education Act (20 U.S.C. § 1471 et seq.). The Commissioner of the Department of
101 Health, ~~the Director of the Department for the Deaf and Hard of Hearing~~, the Superintendent of Public
102 Instruction, the Director of the Department of Medical Assistance Services, the Commissioner of the
103 Department of Mental Health, Mental Retardation and Substance Abuse Services, the Commissioner of
104 the Department of Social Services, the Commissioner of the Department ~~for the Blind and Vision~~
105 ~~Impaired of Rehabilitative and Disability Services~~, the Director of the Virginia Office for Protection and
106 Advocacy, and the Commissioner of the Bureau of Insurance within the State Corporation Commission
107 shall each appoint one person from his agency to serve as the agency's representative on the Council.

108 Agency representatives shall regularly inform their agency head of the Council's activities and the
109 status of the implementation of an early intervention services system in the Commonwealth.

110 C. The Council's duties shall include advising and assisting the lead agency in the following:

- 111 1. Performing its responsibilities for the early intervention services system;
- 112 2. Identifying sources of fiscal and other support for early intervention services, recommending
113 financial responsibility arrangements among agencies, and promoting interagency agreements;
- 114 3. Developing strategies to encourage full participation, coordination, and cooperation of all
115 appropriate agencies;
- 116 4. Resolving interagency disputes;
- 117 5. Gathering information about problems that impede timely and effective service delivery and taking
118 steps to ensure that any identified policy problems are resolved;
- 119 6. Preparing federal grant applications; and

7. Preparing and submitting an annual report to the Governor and the U.S. Secretary of Education on the status of early intervention services within the Commonwealth.

§ 2.2-3401. Agency proceedings and determinations; application for licenses and services.

A. In the case of any agency proceeding or determination as to whether there is a violation of law or regulation by a deaf person or whether such person may obtain or retain a license or other right or benefit, and when the agency or deaf person requests an interpreter for the deaf, the agency shall request the ~~Virginia Department for the Deaf and Hard-of-Hearing~~ *of Rehabilitative and Disability Services* to appoint a qualified interpreter or shall appoint such an interpreter from a list of qualified interpreters supplied by the Department to interpret the proceedings to the deaf person and to interpret any testimony the deaf person may give.

B. Whenever a deaf person applies for or receives any license, service, assistance or other right or benefit provided by an agency, the agency shall either request the ~~Virginia Department for the Deaf and Hard-of-Hearing~~ *of Rehabilitative and Disability Services* to appoint a qualified interpreter for the deaf or appoint such an interpreter from the list of qualified interpreters maintained by the Department to assist the deaf person in communicating with agency personnel.

§ 2.2-3402. How interpreters paid.

An interpreter for the deaf appointed pursuant to § 2.2-3401 shall be paid by the agency out of such state and federal funds as may be available for the purpose or, if the agency has insufficient funds to pay an interpreter, the ~~Virginia Department for the Deaf and Hard-of-Hearing~~ *of Rehabilitative and Disability Services* may appoint and pay an interpreter from the funds it may have available for the purpose.

§ 2.2-4344. Exemptions from competition for certain transactions.

A. Any public body may enter into contracts without competition for:

1. The purchase of goods or services that are produced or performed by:

a. Persons, or in schools or workshops, under the supervision of the ~~Virginia Department for the Blind and Vision Impaired~~ *of Rehabilitative and Disability Services*; or

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped.

2. The purchase of legal services, provided that the pertinent provisions of Chapter 5 (§ 2.2-500 et seq.) of this title remain applicable, or expert witnesses or other services associated with litigation or regulatory proceedings.

B. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.2-4902.

C. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without competition with respect to the exercise of any of its powers permitted by § 15.2-5158. However, this exception shall not apply in cases where any public funds other than special assessments and incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

D. The Inspector General for Mental Health, Mental Retardation and Substance Abuse Services may enter into contracts without competition to obtain the services of licensed health care professionals or other experts to assist in carrying out the duties of the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.

§ 8.01-66.9. Lien in favor of Commonwealth, its programs, institutions or departments on claim for personal injuries.

Whenever any person sustains personal injuries and receives treatment in any hospital, public or private, or nursing home, or receives medical attention or treatment from any physician, or receives nursing services or care from any registered nurse in this Commonwealth, or receives pharmaceutical goods or any type of medical or rehabilitative device, apparatus, or treatment which is paid for pursuant to the Virginia Medical Assistance Program, the State/Local Hospitalization Program and other programs of the Department of Medical Assistance Services, the Maternal and Child Health Program, or the Children's Specialty Services Program, or provided at or paid for by any hospital or rehabilitation center operated by the Commonwealth, the Department of Rehabilitative *and Disability Services* or any state institution of higher education, the Commonwealth shall have a lien for the total amount paid pursuant to such program, and the Commonwealth or such Department or institution shall have a lien for the total amount due for the services, equipment or devices provided at or paid for by such hospital or center operated by the Commonwealth or such Department or institution, or any portion thereof compromised pursuant to the authority granted under § 2.2-514, on the claim of such injured person or of his personal representative against the person, firm, or corporation who is alleged to have caused such injuries.

The Commonwealth or such Department or institution shall also have a lien on the claim of the injured person or his personal representative for any funds which may be due him from insurance moneys received for such medical services under the injured party's own insurance coverage or through

an uninsured or underinsured motorist insurance coverage endorsement. The lien granted to the Commonwealth for the total amounts paid pursuant to the Virginia Medical Assistance Program, the State/Local Hospitalization Program and other programs of the Department of Medical Assistance Services, the Maternal and Child Health Program, or the Children's Specialty Services Program shall have priority over the lien for the amounts due for services, equipment or devices provided at a hospital or center operated by the Commonwealth. The Commonwealth's or such Department's or institution's lien shall be inferior to any lien for payment of reasonable attorney's fees and costs, but shall be superior to all other liens created by the provisions of this chapter and otherwise. Expenses for reasonable legal fees and costs shall be deducted from the total amount recovered. The amount of the lien may be compromised pursuant to § 2.2-514.

The court in which a suit by an injured person or his personal representative has been filed against the person, firm or corporation alleged to have caused such injuries or in which such suit may properly be filed, may, upon motion or petition by the injured person, his personal representative or his attorney, and after written notice is given to all those holding liens attaching to the recovery, reduce the amount of the liens and apportion the recovery, whether by verdict or negotiated settlement, between the plaintiff, the plaintiff's attorney, and the Commonwealth or such Department or institution as the equities of the case may appear, provided that the injured person, his personal representative or attorney has made a good faith effort to negotiate a compromise pursuant to § 2.2-514. The court shall set forth the basis for any such reduction in a written order.

§ 8.01-384.1. Interpreters for deaf in civil proceedings.

In any civil proceeding in which a speech-impaired or hearing-impaired person is a party or witness, the court may appoint a qualified interpreter to assist such person in the proceeding. The court shall appoint an interpreter for any speech-impaired or hearing-impaired person who requests this assistance.

Interpreters for the deaf in these proceedings shall be procured through the Department for the Deaf and Hard-of-Hearing of Rehabilitative and Disability Services.

Any person who is eligible for an interpreter pursuant to this section may waive the use of an interpreter appointed by the court for all or a portion of the proceedings. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The compensation of interpreters appointed pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury or may, in the discretion of the court, be assessed as a part of the cost of the proceedings.

The provisions of this section shall apply in both circuit courts and district courts.

§ 15.2-1805. Permitting visually handicapped persons to operate stands for sale of newspapers, etc.

A locality, by ordinance or resolution, may authorize any visually handicapped person to construct, maintain and operate, under the supervision of the Virginia Department for the Blind and Vision Impaired of Rehabilitative and Disability Services, in the county or city courthouse or in any other property of the locality, a stand for the sale of newspapers, periodicals, confections, tobacco products and similar articles and may prescribe rules for the operation of such stand.

§ 19.2-164.1. Interpreters for the deaf.

In any criminal case in which a deaf person is the accused, an interpreter for the deaf person shall be appointed. In any criminal case in which a deaf person is the victim or a witness, an interpreter for the deaf person shall be appointed by the court in which the case is to be heard unless the court finds that the deaf person does not require the services of a court-appointed interpreter and the deaf person waives his rights. Such interpreter shall be procured by the judge of the court in which the case is to be heard through the Department for the Deaf and Hard-of-Hearing of Rehabilitative and Disability Services.

The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs.

Any person entitled to the services of an interpreter under this section may waive these services for all or a portion of the proceedings. Such a waiver shall be made by the person upon the record after an opportunity to consult with legal counsel. A judicial officer, utilizing an interpreter obtained in accordance with this section, shall explain to the deaf person the nature and effect of any waiver. Any waiver shall be approved in writing by the deaf person's legal counsel. If the person does not have legal counsel, approval shall be made in writing by a judicial officer. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The provisions of this section shall apply in both circuit courts and district courts.

Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter.

In any judicial proceeding, the judge on his own motion or on the motion of a party to the

proceeding may order all of the testimony of a deaf person and the interpretation thereof to be visually electronically recorded for use in verification of the official transcript of the proceedings.

§ 22.1-214. Board to prepare special education program for children with disabilities.

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests which will assess inner and middle ear functioning, be performed on each child who is hearing impaired or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing of Rehabilitative and Disability Services, the Department of Health and other state and local agencies which can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall encourage the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C of this section may bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education which comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments which would have been available to such school division to provide special education, directly or by contract, to eligible children with disabilities in such manner as the Board considers appropriate.

F. The Board of Education shall supervise educational programs for children with disabilities by other public agencies and shall ensure that the identification, evaluation and placement of children with disabilities and youth in education programs by other public agencies, as appropriate, are consistent with the provisions of the Board of Education's special education regulations.

G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the evaluation of children with disabilities. These regulations shall include provision for parents to participate, if they so request, in the consideration of the assessment components to be used. However, such regulations shall not require any local school board to exceed the requirements of federal law or regulations for the identification and evaluation of children with disabilities.

§ 22.1-217. Visually impaired children.

A. Special education for visually impaired children provided by a school division shall be established, maintained and operated jointly by the school board and the Virginia Department for the Blind and Vision Impaired of Rehabilitative and Disability Services subject to the regulations of the Board of Education. Braille instruction shall be included in the student's Individualized Education Plan (IEP), whenever appropriate. When developing the IEP for students with visual impairment, the presumption shall be that proficiency in literacy is essential for such student to achieve satisfactory educational progress. However, use of Braille shall not be required if other special education services are more appropriate to the student's educational needs, and the provision of other appropriate services shall not preclude Braille instruction.

B. The Virginia Department for the Blind and Vision Impaired of Rehabilitative and Disability Services shall prepare and deliver a program of special education services in addition to the special education provided in the public school system designed to meet the educational needs of visually impaired children between the ages of birth and twenty-one 21 and may prepare and deliver such

304 programs for such individuals of other ages. In the development of such a program, the ~~Virginia~~
305 ~~Department for the Blind and Vision Impaired of Rehabilitative and Disability Services~~ shall cooperate
306 with the Board of Education and the school boards of the several school divisions. The ~~Virginia~~
307 ~~Department for the Blind and Vision Impaired of Rehabilitative and Disability Services~~ shall assist the
308 Board of Education and the school boards of the several school divisions with in-service training in
309 Braille for currently employed teachers of students who are blind and visually impaired.

310 C. As used in this section:

311 "Braille" means the system of reading and writing through touch and is commonly known as
312 standard English Braille Grade 2.

313 "Program" means a modified program which provides special materials or services and may include
314 the employment of itinerant teachers or resource room teachers for the visually impaired.

315 "Visually impaired" shall be defined by the Board of Education and the ~~Virginia~~ Department for the
316 ~~Blind and Vision Impaired of Rehabilitative and Disability Services~~.

317 § 22.1-217.01. Information on educational and other services for students identified as hearing or
318 visually impaired.

319 The Department of Education shall annually prepare and distribute to local school boards packets of
320 information describing the educational and other services available through the Virginia School for the
321 Deaf and the Blind at Staunton, the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton,
322 the ~~Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind~~
323 ~~and Vision Impaired of Rehabilitative and Disability Services~~ to students who are identified as hearing
324 impaired or visually impaired. Local school boards shall annually distribute this information to the
325 parents of those students who are identified as hearing impaired or visually impaired.

326 § 22.1-253.13:5. Standard 5. Teacher quality and educational leadership.

327 A. Each member of the Board of Education shall participate in high-quality professional development
328 programs on personnel, curriculum and current issues in education as part of his service on the Board.

329 B. Consistent with the finding that leadership is essential for the advancement of public education in
330 the Commonwealth, the Board of Education shall develop uniform performance standards and evaluation
331 criteria for teachers, administrators, and superintendents, which shall include standards for training in the
332 implementation of the Standards of Learning and training in the evaluation and documentation of teacher
333 and administrator performance based on student academic progress and the skills and knowledge of
334 instructional personnel.

335 C. The Board of Education shall provide guidance on high-quality professional development for (i)
336 teachers, principals, supervisors, division superintendents and other school staff; (ii) administrative and
337 supervisory personnel in the evaluation and documentation of teacher and administrator performance
338 based on student academic progress and the skills and knowledge of such instructional or administrative
339 personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv)
340 programs in Braille for teachers of the blind and visually impaired, in cooperation with the ~~Virginia~~
341 ~~Department for the Blind and Vision Impaired of Rehabilitative and Disability Services~~.

342 The Board shall also provide technical assistance on high-quality professional development to local
343 school boards designed to ensure that all instructional personnel are proficient in the use of educational
344 technology consistent with its Six-Year Educational Technology Plan for Virginia.

345 D. Each local school board shall require (i) its members to participate annually in high-quality
346 professional development programs on personnel, curriculum and current issues in education as part of
347 their service on the local board and (ii) the division superintendent to participate annually in high-quality
348 professional development activities at the local, state or national levels.

349 E. Each local school board shall provide a program of high-quality professional development (i) in
350 the use and documentation of performance standards and evaluation criteria based on student academic
351 progress and skills for teachers and administrators to clarify roles and performance expectations and to
352 facilitate the successful implementation of instructional programs that promote student achievement at
353 the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and
354 principals in acquiring the skills needed to work with gifted students, students with disabilities, and
355 students who have been identified as having limited English proficiency and to increase student
356 achievement and expand the knowledge and skills students require to meet the standards for academic
357 performance set by the Board of Education; (iii) in educational technology for all instructional personnel
358 which is designed to facilitate integration of computer skills and related technology into the curricula,
359 and (iv) for administrative personnel designed to increase proficiency in instructional leadership and
360 management, including training in the evaluation and documentation of teacher and administrator
361 performance based on student academic progress and the skills and knowledge of such instructional or
362 administrative personnel.

363 In addition, each local school board shall also provide teachers and principals with high-quality
364 professional development programs in (i) the preparation of tests and other assessment measures; (ii)
365 methods for assessing the progress of individual students, including Standards of Learning assessment

materials or other criterion-referenced tests that match locally developed objectives; (iii) instruction and remediation techniques in English, mathematics, science, and history and social science; (iv) interpreting test data for instructional purposes; and (v) technology applications to implement the Standards of Learning.

F. Schools and school divisions shall include as an integral component of their biennial plans and six-year plans, respectively, required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals.

§ 22.1-347. Superintendent of Public Instruction to prescribe curricula; schools to report; transportation of students.

A. The Superintendent of Public Instruction shall approve the education programs of the Virginia Schools for the Deaf and the Blind. The ~~Virginia Department for the Deaf and Hard of Hearing and the Virginia Department for the Blind and Vision Impaired~~ *of Rehabilitative and Disability Services* shall provide consultant services as deemed appropriate by the Superintendent of Public Instruction.

B. Each of the schools shall make an annual report to the Superintendent of Public Instruction of such requirements and on such forms as prescribed. This report shall show receipts and disbursements, educational offerings and other pertinent information pertaining to the general operation of the schools for each fiscal year. A synopsis of this report shall be included in the annual report of the Superintendent of Public Instruction.

C. The Board shall prescribe procedures governing both schools for the transportation of students to permit frequent home visits by students and to provide each student transportation to and from the school he attends and the place of residence of the child's parent or guardian whenever the school is officially closed.

§ 32.1-45.1. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.

A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.

B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.

C. For the purposes of this section, "health care provider" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative *and Disability Services*, or the Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.

D. "Health care provider," as defined in subsection C ~~of this section~~, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during the period while rendering such emergency care or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.

E. Whenever any law-enforcement officer is directly exposed to body fluids of a person in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the law-enforcement officer who was exposed. In other than emergency situations, it shall be the responsibility of the law-enforcement officer to inform the person of this provision prior to the contact which creates a risk of such exposure.

427 F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer in a
428 manner which may, according to the then current guidelines of the Centers for Disease Control, transmit
429 human immunodeficiency virus or hepatitis B or C viruses, the law-enforcement officer whose body
430 fluids were involved in the exposure shall be deemed to have consented to testing for infection with
431 human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer shall also be
432 deemed to have consented to the release of such test results to the person.

433 G. For the purposes of this section, "law-enforcement officer" means a person who is both (i)
434 engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any
435 adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or
436 department under the direction and control of the Commonwealth or any local governing body that
437 employs persons who have law-enforcement authority.

438 H. Whenever any school board employee is directly exposed to body fluids of any person in a
439 manner which may, according to the then current guidelines of the Centers for Disease Control, transmit
440 human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved
441 in the exposure shall be deemed to have consented to testing for infection with human
442 immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented
443 to the release of such test results to the school board employee who was exposed. In other than
444 emergency situations, it shall be the responsibility of the school board employee to inform the person of
445 this provision prior to the contact that creates a risk of such exposure.

446 I. Whenever any person is directly exposed to the body fluids of a school board employee in a
447 manner that may, according to the then current guidelines of the Centers for Disease Control, transmit
448 human immunodeficiency virus or hepatitis B or C viruses, the school board employee whose body
449 fluids were involved in the exposure shall be deemed to have consented to testing for infection with
450 human immunodeficiency virus or hepatitis B or C viruses. The school board employee shall also be
451 deemed to have consented to the release of such test results to the person.

452 J. For the purposes of this section, "school board employee" means a person who is both (i) acting in
453 the course of employment at the time of such exposure and (ii) employed by any local school board in
454 the Commonwealth.

455 K. For purposes of subsection H, if the person to be tested is a minor, consent for such testing shall
456 be obtained from the parent, guardian, or person standing in loco parentis of such minor prior to
457 initiating such testing. If the parent or guardian or person standing in loco parentis withholds such
458 consent, the school board may petition the juvenile and domestic relations district court in the county or
459 city where the minor resides for an order requiring such testing.

460 L. Except as provided in subsection K, if the person whose blood specimen is sought for testing
461 refuses to provide such specimen, any person potentially exposed to the human immunodeficiency virus
462 or hepatitis B or C viruses, or the employer of such person, may petition the general district court of the
463 county or city in which the person whose specimen is sought resides or resided, or, in the case of a
464 nonresident, the county or city where the health care provider, law-enforcement agency or school board
465 has its principal office, for an order requiring the person to provide a blood specimen or to submit to
466 testing and to disclose the test results in accordance with this section. At any hearing before the court,
467 the person whose specimen is sought or his counsel may appear. The court shall be advised by the
468 Commissioner or his designee prior to entering any testing order. If a testing order is issued, both the
469 petitioner and the person from whom the blood specimen is sought shall receive counseling and
470 opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

471 § 32.1-64.1. Virginia Hearing Impairment Identification and Monitoring System.

472 A. In order to identify hearing loss at the earliest possible age among newborns and to provide early
473 intervention for all infants so identified as having hearing impairment, the Commissioner shall establish
474 and maintain the Virginia Hearing Impairment Identification and Monitoring System. This system shall
475 be for the purpose of identifying and monitoring infants with hearing impairment to ensure that such
476 infants receive appropriate early intervention through treatment, therapy, training and education.

477 B. The Virginia Hearing Impairment Identification and Monitoring System shall be initiated in all
478 hospitals with neonatal intensive care services, in all hospitals in the Commonwealth having newborn
479 nurseries, and in other birthing places or centers in the Commonwealth having newborn nurseries.

480 C. In all hospitals with neonatal intensive care services, the chief medical officer of such hospitals or
481 his designee shall identify infants at risk of hearing impairment using criteria established by the Board.
482 Beginning on July 1, 1999, all infants shall be given a hearing screening test, regardless of whether or
483 not the infant is at risk of hearing impairment, by the chief medical officer or his designee using
484 methodology approved by the Board. The test shall take place before the infant is discharged from the
485 hospital to the care of the parent or guardian, or as the Board may by regulation provide.

486 In all other hospitals and other birthing places or centers, the chief medical officer or his designee or
487 the attending practitioner shall identify infants at risk of hearing impairment using criteria established by
488 the Board.

D. Beginning on July 1, 2000, the Board shall provide by regulation for the giving of hearing screening tests for all infants born in all hospitals. The Board's regulations shall establish when the testing shall be offered and performed and procedures for reporting.

An infant whose hearing screening indicates the need for a diagnostic audiological examination shall be offered such examination at a center approved by the Board of Health. As a condition of such approval, such centers shall maintain suitable audiological support and medical and educational referral practices.

E. The Commissioner shall appoint an advisory committee to assist in the design, implementation, and revision of this identification and monitoring system. The advisory committee shall meet at least four times per year. A chairman shall be elected annually by the advisory committee. The Department of Health shall provide support services to the advisory committee. The advisory committee shall consist of representatives from relevant groups including, but not limited to, the health insurance industry; physicians, including at least one pediatrician or family practitioner, one otolaryngologist, and one neonatologist; nurses representing newborn nurseries; audiologists; hearing aid dealers and fitters; teachers of the deaf and hard-of-hearing; parents of children who are deaf or hard-of-hearing; adults who are deaf or hard-of-hearing; hospital administrators; and personnel of appropriate state agencies, including the Department of Medical Assistance Services, the Department of Education, and the Department of the Deaf and Hard-of-Hearing of Rehabilitative and Disability Services. The Department of Education, the Department of the Deaf and Hard-of-Hearing of Rehabilitative and Disability Services, and the Department of Mental Health, Mental Retardation and Substance Abuse Services shall cooperate with the Commissioner and the Board in implementing this system.

F. With the assistance of the advisory committee, the Board shall promulgate such rules and regulations as may be necessary to implement this identification and monitoring system. These rules and regulations shall include criteria, including current screening methodology, for the identification of infants (i) with hearing impairment and (ii) at risk of hearing impairment and shall include the scope of the information to be reported, reporting forms, screening protocols, appropriate mechanisms for follow-up, relationships between the identification and monitoring system and other state agency programs or activities and mechanisms for review and evaluation of the activities of the system. The identification and monitoring system shall collect the name, address, sex, race, and any other information determined to be pertinent by the Board, regarding infants determined to be at risk of hearing impairment or to have hearing loss.

G. In addition, the Board's regulations shall provide that any person making a determination that an infant (i) is at risk for hearing impairment, (ii) has failed to pass a hearing screening, or (iii) was not successfully tested shall notify the parent or guardian of the infant, the infant's primary care practitioner, and the Commissioner.

H. No testing required to be performed or offered by this section shall be performed if the parents of the infant object to the test based on their bona fide religious convictions.

§ 32.1-102.1. Definitions.

As used in this article, unless the context indicates otherwise:

"Certificate" means a certificate of public need for a project required by this article.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Medical care facility," as used in this title, means any institution, place, building or agency, whether or not licensed or required to be licensed by the Board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans. For purposes of this article, only the following medical care facilities shall be subject to review:

1. General hospitals.

2. Sanitariums.

3. Nursing homes.

4. Intermediate care facilities, except those intermediate care facilities established for the mentally

550 retarded that have no more than 12 beds and are in an area identified as in need of residential services
551 for people with mental retardation in any plan of the Department of Mental Health, Mental Retardation
552 and Substance Abuse Services.

553 5. Extended care facilities.

554 6. Mental hospitals.

555 7. Mental retardation facilities.

556 8. Psychiatric hospitals and intermediate care facilities established primarily for the medical,
557 psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

558 9. Specialized centers or clinics or that portion of a physician's office developed for the provision of
559 outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, gamma
560 knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron
561 emission tomographic (PET) scanning, radiation therapy, nuclear medicine imaging, except for the
562 purpose of nuclear cardiac imaging, or such other specialty services as may be designated by the Board
563 by regulation.

564 10. Rehabilitation hospitals.

565 11. Any facility licensed as a hospital.

566 The term "medical care facility" shall not include any facility of (i) the Department of Mental Health,
567 Mental Retardation and Substance Abuse Services; (ii) any nonhospital substance abuse residential
568 treatment program operated by or contracted primarily for the use of a community services board under
569 the Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive
570 Plan; (iii) an intermediate care facility for the mentally retarded that has no more than 12 beds and is in
571 an area identified as in need of residential services for people with mental retardation in any plan of the
572 Department of Mental Health, Mental Retardation and Substance Abuse Services; (iv) a physician's
573 office, except that portion of a physician's office described above in subdivision 9 of the definition of
574 "medical care facility"; or (v) the Woodrow Wilson Rehabilitation Center of the Department of
575 Rehabilitative *and* Disability Services. "Medical care facility" shall also not include that portion of a
576 physician's office dedicated to providing nuclear cardiac imaging.

577 "Project" means:

578 1. Establishment of a medical care facility;

579 2. An increase in the total number of beds or operating rooms in an existing medical care facility;

580 3. Relocation at the same site of 10 beds or 10 percent of the beds, whichever is less, from one
581 existing physical facility to another in any two-year period; however, a hospital shall not be required to
582 obtain a certificate for the use of 10 percent of its beds as nursing home beds as provided in § 32.1-132;

583 4. Introduction into an existing medical care facility of any new nursing home service, such as
584 intermediate care facility services, extended care facility services, or skilled nursing facility services,
585 regardless of the type of medical care facility in which those services are provided;

586 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed
587 tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI),
588 magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart
589 surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service,
590 radiation therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging,
591 substance abuse treatment, or such other specialty clinical services as may be designated by the Board
592 by regulation, which the facility has never provided or has not provided in the previous 12 months;

593 6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or
594 psychiatric beds;

595 7. The addition by an existing medical care facility of any medical equipment for the provision of
596 cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic
597 resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission
598 tomographic (PET) scanning, radiation therapy, or other specialized service designated by the Board by
599 regulation. Replacement of existing equipment shall not require a certificate of public need; or

600 8. Any capital expenditure of \$5 million or more, not defined as reviewable in subdivisions 1
601 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures
602 between \$1 and \$5 million shall be registered with the Commissioner pursuant to regulations developed
603 by the Board.

604 "Regional health planning agency" means the regional agency, including the regional health planning
605 board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform
606 the health planning activities set forth in this chapter within a health planning region.

607 "State Medical Facilities Plan" means the planning document adopted by the Board of Health which
608 shall include, but not be limited to, (i) methodologies for projecting need for medical care facility beds
609 and services; (ii) statistical information on the availability of medical care facilities and services; and
610 (iii) procedures, criteria and standards for review of applications for projects for medical care facilities
611 and services.

"Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

§ 32.1-127.1:04. Use or disclosure of certain protected health information required.

A. The coordination of prevention and control of disease, injury, or disability and the delivery of health care benefits are hereby declared to be (i) necessary public health activities; (ii) necessary health oversight activities for the integrity of the health care system; and (iii) necessary to prevent serious harm and serious threats to the health and safety of individuals and the public.

B. The Departments of Health, Medical Assistance Services, Mental Health, Mental Retardation and Substance Abuse Services, Rehabilitative *and Disability* Services, and Social Services, and the ~~Departments~~ *Department* for the Aging, the ~~Blind and Vision Impaired~~, and the ~~Deaf and Hard-of-Hearing~~, or any successors in interest thereof shall establish a secure system for sharing protected health information that may be necessary for the coordination of prevention and control of disease, injury, or disability and for the delivery of health care benefits when such protected information concerns individuals who (i) have contracted a reportable disease, including exposure to a toxic substance, as required by the Board of Health pursuant to § 32.1-35 or other disease or disability required to be reported by law; (ii) are the subjects of public health surveillance, public health investigations, or public health interventions or are applicants for or recipients of medical assistance services; (iii) have been or are the victims of child abuse or neglect or domestic violence; or (iv) may present a serious threat to health or safety of a person or the public or may be subject to a serious threat to their health or safety. For the purposes of this section, "public health interventions" shall include the services provided through the Department of Rehabilitative *and Disability* Services, and the ~~Departments~~ *Department* for the Aging, the ~~Blind and Vision Impaired~~, and the ~~Deaf and Hard-of-Hearing~~, or any successors in interest thereof.

Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the secure system without obtaining consent or authorization for such disclosure. Such protected health information shall be used exclusively for the purposes established in this section.

C. The Office of the Attorney General shall advise the Departments of Health, Medical Assistance Services, Mental Health, Mental Retardation and Substance Abuse Services, Rehabilitative *and Disability* Services, and Social Services and the ~~Departments~~ *Department* for the Aging, the ~~Blind and Vision Impaired~~, and the ~~Deaf and Hard-of-Hearing~~, or any successors in interest thereof in the implementation of this section.

§ 37.1-67.5. Same; interpreters for deaf persons in commitment or certification proceedings.

In any proceeding pursuant to § 37.1-65.1 or §§ 37.1-67.1 through 37.1-67.4 in which a deaf person is alleged to be mentally retarded or mentally ill, an interpreter for such deaf person shall be appointed by the justice of the court in which such proceeding is pending from a list of qualified interpreters provided by the Department for the ~~Deaf and Hard-of-Hearing~~ *of Rehabilitative and Disability Services*. Such interpreter shall be compensated as provided for in § 37.1-89.

§ 37.1-197. Community services boards; local government department; powers and duties.

A. Every operating community services board or local government department with a policy-advisory board shall have the following powers and duties:

1. Review and evaluate all existing and proposed public community mental health, mental retardation and substance abuse services and facilities available to serve the community and such private services and facilities as receive funds through it and advise the local governing body or bodies of the political subdivision or subdivisions that established it as to its findings.

2. Pursuant to § 37.1-198, submit to the governing body of each political subdivision that established it an annual performance contract for community mental health, mental retardation and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated therefor, provide such services as may be authorized under such performance contract.

4. In accordance with its approved performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.

5. In the case of operating boards, make rules, policies, or regulations concerning the rendition or operation of services and facilities under its direction or supervision, subject to applicable standards, policies, or regulations promulgated by the State Board.

6. In the case of operating boards, appoint an executive director of community mental health, mental retardation and substance abuse services, according to minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by the operating board within the amounts made available by appropriation therefor. The executive director shall serve at the pleasure of the operating board and be employed under an annually renewable contract

673 that contains performance objectives and evaluation criteria. For operating boards, the Department shall
674 approve (i) the selection of the executive director for adherence to minimum qualifications established
675 by the Department and (ii) the salary ranges of the executive director and senior management staff. In
676 the case of a local government department with a policy-advisory board, the director of the local
677 government department shall serve as the executive director. The policy-advisory board shall participate
678 in the selection and the annual performance evaluation of the executive director, according to minimum
679 qualifications established by the Department. The compensation of the executive director shall be fixed
680 by local government in consultation with the policy-advisory board within the amounts made available
681 by appropriation therefor.

682 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
683 jurisdiction or supervision of the board and establish procedures for the collection of the same. All fees
684 collected shall be included in the performance contract submitted to the local governing body or bodies
685 pursuant to subdivision 2 hereof and § 37.1-198 and shall be used only for community mental health,
686 mental retardation and substance abuse purposes. Every operating board and local government
687 department with a policy-advisory board shall institute a reimbursement system to maximize the
688 collection of fees from persons receiving services under their jurisdiction or supervision consistent with
689 the provisions of § 37.1-202.1 and from responsible third-party payors. Operating boards and local
690 government departments with policy-advisory boards shall not attempt to bill or collect fees for time
691 spent participating in involuntary commitment hearings pursuant to § 37.1-67.3.

692 8. Accept or refuse gifts, donations, bequests or grants of money or property from any source and
693 utilize the same as authorized by the governing body or bodies of the political subdivision or
694 subdivisions that established it.

695 9. Seek and accept funds through federal grants. In accepting such grants the operating board or local
696 government department with a policy-advisory board shall not bind the governing body or bodies of the
697 political subdivision or subdivisions that established it to any expenditures or conditions of acceptance
698 without the prior approval of such governing body or bodies.

699 10. Have authority, notwithstanding any provision of law to the contrary, to disburse funds
700 appropriated to it in accordance with such regulations as may be established by the governing body or
701 bodies of the political subdivision or subdivisions that established it.

702 11. Apply for and accept loans as authorized by the governing body or bodies of the political
703 subdivision or subdivisions that established it. This provision is not intended to affect the validity of
704 loans so authorized and accepted prior to July 1, 1984.

705 12. Develop joint annual written agreements, consistent with policies and procedures established by
706 the State Board, with local school divisions; health departments; boards of social services; housing
707 agencies, where they exist; courts; sheriffs; area agencies on aging; and regional Department of
708 Rehabilitative and Disability Services offices. The agreements shall specify what services will be
709 provided to consumers. All participating agencies shall develop and implement the agreements and shall
710 review the agreements annually.

711 13. Develop and submit to the Department the necessary information for the preparation of the
712 Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to
713 § 37.1-48.1.

714 14. Take all necessary and appropriate actions to maximize the involvement and participation of
715 consumers and family members of consumers in policy formulation and services planning, delivery, and
716 evaluation.

717 15. Institute, singly or in combination with other operating boards, administrative policy boards, local
718 government departments with policy-advisory boards, or behavioral health authorities a dispute resolution
719 mechanism that is approved by the Department and enables consumers and family members of
720 consumers to resolve concerns, issues, or disagreements about services without adversely affecting their
721 access to or receipt of appropriate types and amounts of current or future services from the operating
722 board or local government department with a policy-advisory board.

723 16. Notwithstanding the provisions of § 37.1-84.1 or any regulations promulgated thereunder, release
724 data and information about individual consumers to the Department so long as the Department
725 implements procedures to protect the confidentiality of such information.

726 B. Every administrative policy community services board shall:

727 1. Review and evaluate all existing and proposed public community mental health, mental retardation
728 and substance abuse services and facilities available to serve the community and such private services
729 and facilities as receive funds through it and advise the local governing body or bodies of the political
730 subdivision or subdivisions that established it as to its findings.

731 2. Pursuant to § 37.1-198, submit to the governing body of each political subdivision that established
732 it, an annual performance contract for community mental health, mental retardation and substance abuse
733 services for its approval prior to submission of the contract to the Department.

734 3. Within amounts appropriated therefor, provide such services as may be authorized under such

performance contract.

4. In accordance with its approved performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.

5. Make rules, policies, or regulations concerning the rendition or operation of services and facilities under its direction or supervision, subject to applicable standards, policies or regulations promulgated by the State Board.

6. Participate with local government in the appointment and annual performance evaluation of an executive director of community mental health, mental retardation and substance abuse services, according to minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by local government in consultation with the board within the amounts made available by appropriation therefor.

7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the board and establish procedures for the collection of the same. All fees collected shall be included in the performance contract submitted to the local governing body or bodies pursuant to subdivision 2 of this subsection and § 37.1-198 and shall be used only for community mental health, mental retardation and substance abuse purposes. Every administrative policy board shall institute a reimbursement system to maximize the collection of fees from persons receiving services under their jurisdiction or supervision consistent with the provisions of § 37.1-202.1 and from responsible third-party payors. Administrative policy boards shall not attempt to bill or collect fees for time spent participating in involuntary commitment hearings pursuant to § 37.1-67.3.

8. Accept or refuse gifts, donations, bequests or grants of money or property from any source and utilize the same as authorized by the governing body or bodies of the political subdivision or subdivisions that established it.

9. Seek and accept funds through federal grants. In accepting such grants, the administrative policy community services boards shall not bind the governing body or bodies of the political subdivision or subdivisions that established it to any expenditures or conditions of acceptance without the prior approval of such governing body or bodies.

10. Have authority, notwithstanding any provision of law to the contrary, to disburse funds appropriated to it in accordance with such regulations as may be established by the governing body or bodies of the political subdivision or subdivisions that established it.

11. Apply for and accept loans as authorized by the governing body or bodies of the political subdivision or subdivisions that established it.

12. Develop joint annual written agreements, consistent with policies and procedures established by the State Board, with local school divisions; health departments; boards of social services; housing agencies, where they exist; courts; sheriffs; area agencies on aging; and regional Department of Rehabilitative and Disability Services offices. The agreements shall specify what services will be provided to consumers. All participating agencies shall develop and implement the agreements and shall review the agreements annually.

13. Develop and submit to the local governing body of each political subdivision that established it and to the Department the necessary information for the preparation of the Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to § 37.1-48.1.

14. Take all necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and services planning, delivery, and evaluation.

15. Institute, singly or in combination with other operating community services boards, administrative policy boards, local government departments with policy-advisory boards, or behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables consumers and family members of consumers to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the administrative policy board.

16. Notwithstanding the provisions of § 37.1-84.1 or any regulations promulgated thereunder, release data and information about individual consumers to the Department so long as the Department implements procedures to protect the confidentiality of such information.

17. Carry out other duties and responsibilities as assigned by the governing body of each political subdivision that established it.

By local agreement between the administrative policy board and the governing body of the political subdivision that established it, additional responsibilities may be carried out by the local government, including, but not limited to, personnel or financial management. In the case of administrative policy boards established by more than one city or county, the participating subdivisions shall designate which local government shall assume these responsibilities.

C. Every policy-advisory community services board, with staff support provided by the director of

796 the local government department, shall:

797 1. Advise the local government regarding rules, policies, or regulations for the rendition or operation
798 of services and facilities by the local government department, subject to applicable standards, policies, or
799 regulations promulgated by the State Board.

800 2. Review and evaluate the operations of the local government department and advise the local
801 governing body of each political subdivision that established it as to its findings.

802 3. Review the community mental health, mental retardation and substance abuse services developed
803 by the local government department and advise the local governing body of each political subdivision
804 that established it as to its findings.

805 4. Review and comment on the annual performance contract, quarterly and annual performance
806 reports, and Comprehensive State Plan proposals developed by the local government department. The
807 board's comments shall be attached to the performance contract, performance reports, and
808 Comprehensive State Plan proposals prior to their submission to the local governing body of each
809 political subdivision that established it and to the Department.

810 5. Advise the local government as to the necessary and appropriate actions to maximize the
811 involvement and participation of consumers and family members of consumers in policy formulation and
812 services evaluation.

813 6. Participate in the selection and the annual performance evaluation of the local government
814 department director employed by the city or county.

815 7. Carry out other duties and responsibilities as assigned by the governing body of each political
816 subdivision that established it.

817 § 37.1-197.1. Prescription team; prescreening; predischarge planning.

818 A. In order to provide comprehensive mental health, mental retardation and substance abuse services
819 within a continuum of care, the operating community services board, administrative policy board or local
820 government department with a policy-advisory board shall function as the single point of entry into the
821 publicly funded mental health, mental retardation and substance abuse services system and shall fulfill
822 the following responsibilities:

823 1. Establish and coordinate the operation of a prescription team that shall be composed of
824 representatives from the operating community services board, administrative policy board or local
825 government department with a policy-advisory board, local department of social services, health
826 department, Department of Rehabilitative *and Disability* Services office serving in the community
827 services board's area and, as appropriate, the social services staff of the state institution(s) serving the
828 community services board's catchment area and the local school division. Such other human resources
829 agency personnel may serve on the team as the team deems necessary. The team, under the direction of
830 the operating community services board, administrative policy board or the local government department
831 with a policy-advisory board, shall be responsible for integrating the community services necessary to
832 accomplish effective prescreening and predischarge planning for consumers referred to the operating
833 community services board, administrative policy community services board, or local government
834 department with a policy-advisory board. When prescreening reports are required by the court on an
835 emergency basis pursuant to § 37.1-67.3, the team may designate one team member to develop the
836 report for the court and report thereafter to the team.

837 2. Provide prescreening services prior to the admission for treatment pursuant to § 37.1-65 or
838 § 37.1-67.3 of any person who requires emergency mental health services while in a political subdivision
839 served by the operating community services board, administrative policy board or local government
840 department with a policy-advisory board.

841 3. Provide, in consultation with the appropriate state mental health facility or training center,
842 predischarge planning for any person who, prior to admission, resided in a political subdivision served
843 by the operating community services board, administrative policy board, or local government department
844 with a policy-advisory board or who chooses to reside after hospitalization in a political subdivision
845 served by the board, and who is to be released from a state mental health facility or training center
846 pursuant to § 37.1-98. The predischarge plan shall be completed prior to the person's discharge. The plan
847 shall be prepared with the involvement and participation of the consumer or his representative and must
848 reflect the consumer's preferences to the greatest extent possible. The plan shall include the mental
849 health, mental retardation, substance abuse, social, educational, medical, employment, housing, legal,
850 advocacy, transportation, and other services that the consumer will need upon discharge into the
851 community and identify the public or private agencies that have agreed to provide them.

852 No person shall be discharged from a state mental health facility or training center without
853 completion by the operating board, administrative policy board, or local government department with a
854 policy-advisory board of the predischarge plan described in subdivision 3 of this subsection. If state
855 facility staff identify a patient or resident as ready for discharge and the operating board, administrative
856 policy board, or local government department with a policy-advisory board that is responsible for the
857 person's care disagrees, the operating board, administrative policy board or local government department

with a policy-advisory board shall document in the treatment plan within ~~thirty~~ 30 days of such person's identification any reasons for not accepting the person for discharge. If the state facility disagrees with the operating board, administrative policy board, or local government department with a policy-advisory board and the operating board, administrative policy board, or local government department with a policy-advisory board refuses to develop a predischarge plan to accept the person back into the community, the state facility or the operating board, administrative policy board, or local government department with a policy-advisory board shall request the Commissioner to review the state facility's determination that the person is ready for discharge in accordance with procedures established in the performance contract. If the Commissioner determines that the person is ready for discharge, a predischarge plan shall be developed by the Department to ensure the availability of adequate services for the consumer and the protection of the community. The Commissioner shall also verify that sufficient state-controlled funds have been allocated to the operating board, administrative policy board, or local government department with a policy-advisory board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider or another operating board, administrative policy board, or local government department with a policy-advisory board to deliver the services specified in the predischarge plan and withhold funds allocated applicable to that consumer's predischarge plan from the operating board, administrative policy board, or local government department with a policy-advisory board in accordance with subsections C and E of § 37.1-198.

B. The operating community services board, administrative policy board, or local government department with a policy-advisory board may perform the functions set out in subdivision A 1, regarding the prescription team, in the case of children by referring consumers who are minors to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The operating board, administrative policy board, or local government department with a policy-advisory board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

§ 37.1-248. Behavioral health authorities; powers and duties.

Every authority shall be deemed to be a public instrumentality, exercising public and essential governmental functions to provide for the public mental health, welfare, convenience and prosperity of the residents and such other persons who might be served by the authority and to provide behavioral health services to such residents and persons. An authority shall have the following powers and duties:

1. Review and evaluate all existing and proposed public community mental health, mental retardation, and substance abuse services and facilities available to serve the community and such private services and facilities as receive funds through the authority and advise the governing body of the political subdivision that established it as to its findings.

2. Pursuant to § 37.1-248.1 and in order to obtain state, local, federal, Medicaid, and other revenues appropriated or reimbursed for the provision of mental health, mental retardation and substance abuse services, submit to the governing body of the political subdivision that established it an annual performance contract for community mental health, mental retardation, and substance abuse services for its approval prior to submission of the contract to the Department.

3. Within amounts appropriated therefor, provide such services as may be authorized under such performance contract for consumers in need.

4. In accordance with its approved performance contract, enter into contracts with other providers for the rendition or operation of services or facilities.

4a. Make and enter into all other contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of powers granted by this chapter, including contracts with any federal agency, the Commonwealth, or with any unit thereof, behavioral health providers, insurers, and managed care/health care networks on such terms and conditions as the authority may approve.

5. Make rules, policies, or regulations concerning the rendition or operation of services and facilities under its direction or supervision, subject to applicable standards, policies, or regulations promulgated by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

6. Appoint a chief executive officer of the behavioral health authority, according to minimum qualifications established by the Department, and prescribe his duties. The compensation of such chief executive officer shall be fixed by the authority within the amounts made available by appropriation therefor. The chief executive officer shall serve at the pleasure of the authority's board of directors and be employed under an annually renewable contract that contains performance objectives and evaluation criteria. The Department shall approve (i) the selection of the chief executive officer for adherence to minimum qualifications established by the Department and (ii) the salary ranges of the chief executive

919 officer and senior management staff.

920 7. Empower the chief executive officer to maintain a complement of professional staff to operate the
921 behavioral health authority's service delivery system.

922 8. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
923 jurisdiction or supervision of the authority and establish procedures for the collection of the same. All
924 fees collected shall be included in the performance contract submitted to the local governing body
925 pursuant to subdivision 2 hereof and § 37.1-248.1 and shall be used only for community mental health,
926 mental retardation and substance abuse purposes. Every authority shall institute a reimbursement system
927 to maximize the collection of fees from persons receiving services under the jurisdiction or supervision
928 of the authority consistent with the provisions of § 37.1-202.1 and from responsible third-party payers.
929 Authorities shall not attempt to bill or collect fees for time spent participating in involuntary
930 commitment hearings pursuant to § 37.1-67.3.

931 9. Accept or refuse gifts, donations, bequests, or grants of money or property, or other assistance
932 from the federal government, the Commonwealth, any municipality thereof, or from any other sources,
933 public or private; utilize the same to carry out any of its purposes; and enter into any agreement or
934 contract regarding or relating to the acceptance or use or repayment of any such grant or assistance.

935 10. Seek and accept funds through federal grants. In accepting such grants, the authority shall not
936 bind the governing body of the political subdivision that established it to any expenditures or conditions
937 of acceptance without the prior approval of such governing body.

938 11. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in
939 accordance with applicable regulations.

940 12. Apply for and accept loans in accordance with regulations established by the board of directors.

941 13. Develop joint annual written agreements, consistent with policies and procedures established by
942 the State Board, with local school divisions; health departments; boards of social services; housing
943 agencies, where they exist; courts; sheriffs; area agencies on aging; and regional Department of
944 Rehabilitative *and* Disability Services offices. The agreements shall specify what services will be
945 provided to consumers. All participating agencies shall develop and implement the agreements and shall
946 review the agreements annually.

947 14. Develop and submit to the Department the necessary information for the preparation of the
948 Comprehensive State Plan for mental health, mental retardation and substance abuse services pursuant to
949 § 37.1-48.1.

950 15. Take all necessary and appropriate actions to maximize the involvement and participation of
951 consumers and family members of consumers in policy formulation and service planning, delivery, and
952 evaluation.

953 16. Institute, singly or in combination with other operating boards, administrative policy boards, local
954 governments with policy-advisory boards, or behavioral health authorities, a dispute resolution
955 mechanism that is approved by the Department and enables consumers and family members of
956 consumers to resolve concerns, issues, or disagreements about services without adversely affecting their
957 access to or receipt of appropriate types and amounts of current or future services from the authority.

958 17. Notwithstanding the provisions of § 37.1-84.1 and regulations promulgated thereunder, release
959 data and information about individual consumers to the Department, so long as the Department
960 implements procedures to protect the confidentiality of such information.

961 18. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia
962 pertaining to community services boards including, but not limited to: § 37.1-65.1 (judicial certification
963 of eligibility for admission of mentally retarded persons); §§ 37.1-67.1 through 37.1-67.6 (involuntary
964 detention); § 37.1-84.1 (human rights); § 37.1-98.2 (exchange of information); § 37.1-183.1 (licensure);
965 § 37.1-197.1 (prescription team); § 37.1-197.2 (background checks); § 37.1-199 (allocation of funds by
966 the Department of Mental Health, Mental Retardation and Substance Abuse Services); and § 37.1-202.1
967 (consumer liability for expenses of services).

968 19. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures
969 or other entities in carrying out any activities authorized by this chapter.

970 20. Transact its business, locate its offices and control, directly or through stock or nonstock
971 corporations or other entities, facilities that will assist the authority in carrying out the purposes and
972 intent of this chapter, including without limitations the power to own or operate, directly or indirectly,
973 behavioral health facilities in its service area.

974 21. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions, and
975 in such manner as it may deem proper, and such rights, easements or estates therein as may be
976 necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest
977 therein, whenever it shall become expedient to do so.

978 22. Participate in joint ventures with individuals, corporations, partnerships, associations or other
979 entities for providing behavioral health care or related services or other activities that the authority may
980 undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent

of this chapter.

23. Conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the authority or for the exercise of any of its powers.

24. As a public instrumentality, operationalize its administrative management infrastructure in whole or in part independent of the local governing body; however, nothing in the chapter precludes behavioral health authorities from acquiring support services through existing government entities.

25. Operationalize capital improvements and bonding through existing economic or industrial development authorities.

26. Establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as cities, counties and towns are permitted under § 51.1-801.

27. Make an annual report to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services of the authority's activities.

28. Ensure a continuation of all consumer services during any transition period.

§ 46.2-221. Certain state agencies to report to Department concerning the blind and nearly blind; use of such information by Department; Department to report names of persons refused licenses for defective vision; reports to law-enforcement agencies concerning certain blind or visually impaired persons who operate motor vehicles.

Every state agency having knowledge of the blind or visually handicapped, maintaining any register of the blind, or administering either tax deductions or exemptions for or aid to the blind or visually handicapped shall report in January of each year to the Department the names of all persons so known, registered or benefiting from such deductions or exemptions, for aid to the blind or visually handicapped. This information shall be used by the Department only for the purpose of determining qualifications of these persons for licensure under Chapter 3 of this title. If any such state agency has knowledge that any person so reported continues to operate a motor vehicle, such agency may provide this information to appropriate law-enforcement agencies as otherwise permitted by law.

The Department shall report to the ~~Virginia Department for the Blind and Vision Impaired~~ and the Department of Rehabilitative and Disability Services at least annually the name and address of every person who has been refused a driver's license solely or partly because of failure to pass the Department's visual examination.

If any employee of the ~~Virginia Department for the Blind and Vision Impaired~~ of Rehabilitative and Disability Services makes a report to the Department of Motor Vehicles or provides information to an appropriate law-enforcement agency as required or permitted by this section concerning any client of the agency, it shall not be deemed to have been made in violation of the client-agency relationship.

§ 51.1-124.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service or during the entire period of his creditable service if less than 36 months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable

1042 compensation shall include the full amount of salaries payable to such member for working in covered
1043 positions, regardless of whether a contractual salary is reduced and not paid to such member because of
1044 service in the General Assembly.

1045 "Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for
1046 which credit is allowable.

1047 "Employee" means any teacher, state employee, officer, or employee of a locality participating in the
1048 Retirement System.

1049 "Employer" means the Commonwealth in the case of a state employee, the local public school board
1050 in the case of a teacher, or the political subdivision participating in the Retirement System.

1051 "Joint Rules Committee" means those members of the House of Delegates and the Senate designated
1052 by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet
1053 with each other and to act jointly on behalf of the Committee on Rules for each house.

1054 "Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth,
1055 clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

1056 "Medical Board" means the board of physicians as provided by this chapter.

1057 "Member" means any person included in the membership of the Retirement System.

1058 "Membership service" means service as an employee rendered while a contributing member of the
1059 Retirement System except as provided in this chapter.

1060 "Normal retirement date" means a member's sixty-fifth birthday.

1061 "Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or
1062 unit of the Commonwealth, or any commission, public authority, or body corporate created by or under
1063 an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the
1064 commission, public authority, or body corporate.

1065 "Primary social security benefit" means, with respect to any member, the primary insurance amount
1066 to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions
1067 of the federal Social Security Act as in effect at his date of retirement, under the provisions of this
1068 chapter except as otherwise specifically provided.

1069 "Prior service" means service rendered prior to becoming a member of the Retirement System.

1070 "Purchase of service contract" means a contract entered into by the member and the Retirement
1071 System for the purchase of service credit by the member as provided in § 51.1-142.2.

1072 "Retirement allowance" means the retirement payments to which a member is entitled.

1073 "Retirement System" means the Virginia Retirement System.

1074 "Service" means service as an employee.

1075 "State employee" means any person who is regularly employed full time on a salaried basis, whose
1076 tenure is not restricted as to temporary or provisional appointment, in the service of, and whose
1077 compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or
1078 any department, institution, or agency thereof. "State employee" shall include the Governor, Lieutenant
1079 Governor, Attorney General, and members of the General Assembly but shall not include (i) any local
1080 officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by
1081 the Department for the Blind and Vision Impaired of Rehabilitative and Disability Services pursuant to §
1082 ~~51.5-72~~ 51.5-77.5, (iv) any member of the State Police Officers' Retirement System, (v) any member of
1083 the Judicial Retirement System, or (vi) any member of the Virginia Law Officers' Retirement System.

1084 "Teacher" means any person who is regularly employed full time on a salaried basis as a professional
1085 or clerical employee of a county, city, or other local public school board.

1086 § 51.5-1. Declaration of policy.

1087 It is the policy of this Commonwealth to encourage and enable persons with disabilities to participate
1088 fully and equally in the social and economic life of the Commonwealth and to engage in remunerative
1089 employment. To these ends, the General Assembly directs the Governor, Virginia Office for Protection
1090 and Advocacy, Department for the Aging, ~~Department for the Deaf and Hard of Hearing~~, Department of
1091 Education, Department of Health, Department of Housing and Community Development, Department of
1092 Mental Health, Mental Retardation and Substance Abuse Services, Board for Rights of Virginians with
1093 Disabilities, Department of Rehabilitative and Disability Services, Department of Social Services,
1094 ~~Department for the Blind and Vision Impaired~~, and such other agencies as the Governor deems
1095 appropriate, to provide, in a comprehensive and coordinated manner which makes the best use of
1096 available resources, those services necessary to assure equal opportunity to persons with disabilities in
1097 the Commonwealth.

1098 The provisions of this title shall be known and may be cited as "The Virginians With Disabilities
1099 Act."

1100 § 51.5-2. Plan of cooperation.

1101 The Virginia Office for Protection and Advocacy, Department for the Aging, ~~Department for the~~
1102 ~~Deaf and Hard of Hearing~~, Department of Education, Department of Health, Department of Housing and
1103 Community Development, Department of Mental Health, Mental Retardation and Substance Abuse

Services, Department of Rehabilitative *and Disability* Services, Department of Social Services, Department for the Blind and Vision Impaired and such other agencies as are designated by the Governor which serve persons with disabilities shall formulate a plan of cooperation in accordance with the provisions of this title and the federal Rehabilitation Act. The goal of this plan shall be to promote the fair and efficient provision of rehabilitative and other services to persons with disabilities and to protect the rights of persons with disabilities.

The plan of cooperation shall include an annual update of budgetary commitment under the plan, specifying how many persons with disabilities, by type of impairment, will be served under the plan. The plan of cooperation shall include consideration of first pay provisions for entitlement programs of a cooperating agency. If entitlement services are part of a client's individualized written rehabilitation program or equivalent plan for services, funds shall be paid from the entitlement program when possible. The plan and budgetary commitments shall be reviewed by the respective boards of the cooperating agencies, reviewed by the Virginia Board for People with Disabilities and submitted for approval to the appropriate secretaries within the Governor's Office before implementation.

§ 51.5-12.2. Commonwealth Neurotrauma Initiative Trust Fund established.

A. For the purpose of preventing traumatic spinal cord or brain injuries and improving the treatment and care of Virginians with traumatic spinal cord or brain injuries, there is hereby created in the state treasury a special nonreverting fund to be known as the Commonwealth Neurotrauma Initiative Trust Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller as a revolving fund and shall be administered by the Commonwealth Neurotrauma Initiative Advisory Board, in cooperation with the Commissioner of Rehabilitative *and Disability* Services. The Fund shall consist of grants, donations and bequests from public and private sources and funds collected as provided in § 46.2-411. Such moneys shall be deposited into the state treasury to the credit of the Fund and shall be used for the purposes of this article.

B. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be distributed according to the grant procedures established pursuant to § 51.5-12.4. Moneys in the Fund shall be used to support grants for Virginia-based organizations, institutions, and researchers as follows: (i) ~~forty-seven and one-half~~ 47-1/2 percent shall be allocated for research on the mechanisms and treatment of neurotrauma, (ii) ~~forty-seven and one-half~~ 47-1/2 percent shall be allocated for rehabilitative services, and (iii) five percent shall be allocated for the Department of Rehabilitative *and Disability* Services' costs for administering and staffing the Commonwealth Neurotrauma Initiative Advisory Board.

C. The Fund shall be administered by the Department of Rehabilitative *and Disability* Services.

§ 51.5-12.3. Commonwealth Neurotrauma Initiative Advisory Board established; membership; terms; duties and responsibilities.

A. For the purpose of administering, in coordination with the Commissioner of Rehabilitative *and Disability* Services, the Commonwealth Neurotrauma Initiative Trust Fund, there is hereby established the Commonwealth Neurotrauma Initiative Advisory Board, hereinafter referred to as the Advisory Board. Organizational staff support shall be provided to the Commonwealth Neurotrauma Initiative Advisory Board by the Department of Rehabilitative *and Disability* Services.

The Advisory Board shall consist of seven members as follows: one person licensed to practice medicine in Virginia experienced with brain or spinal cord injury; one person licensed by a health regulatory board within the Department of Health Professions with experience in brain or spinal cord injury rehabilitative programs or services; one Virginian with traumatic spinal cord injury or a caretaker thereof; one Virginian with traumatic brain injury or a caretaker thereof; one citizen-at-large who shall not be an elected or appointed public official; the Commissioner of Rehabilitative *and Disability* Services; and the State Health Commissioner. The Commissioner of Rehabilitative *and Disability* Services and the Commissioner of Health may appoint designees to serve on the Advisory Board. Board members shall be appointed by the Governor. Nominations for appointments may be submitted, at the discretion of the Governor, from relevant organizations.

B. All members shall be appointed by the Governor for terms of four years. No member shall serve more than two successive terms of four years. The chairman shall be elected from the membership of the Advisory Board for a term of one year and shall be eligible for reelection. The Advisory Board shall meet at the call of the chairman or the Commissioner.

C. The Advisory Board shall:

1. Administer, in cooperation with the Commissioner of Rehabilitative *and Disability* Services, the Commonwealth Neurotrauma Initiative Trust Fund, in accordance with such regulations as shall be established for the Fund by the Commissioner;

2. Recommend to the Commissioner of Rehabilitative *and Disability* Services the policies and procedures for the administration of the Fund, including criteria for reviewing and ranking grant applications, distribution of funds, and areas of research need in accordance with the provisions of

subsection B of § 51.5-12.2;

3. Review and rank or arrange for reviewers and technical advisers to review and rank grant applications for education, basic science and clinical research, and rehabilitative research and community-based rehabilitative services;

4. Report annually on October 1, to the Governor and the General Assembly, aggregate data on the operations and funding of the Commonwealth Neurotrauma Initiative Trust Fund.

D. The Advisory Board may appoint grant reviewers and other technical advisers to assist it in its duties. Such reviewers and technical advisers shall be appointed in such manner as to provide equal representation from Virginia's three medical schools. Whenever reviewers or technical advisers sit as a committee, the chairman of the Advisory Board or his designee shall serve as chairman.

§ 51.5-12.4. Procedures for grant applications.

The Commissioner of Rehabilitative and Disability Services shall promulgate regulations establishing procedures and policies for soliciting and receiving grant applications and criteria for reviewing and ranking such applications, including, but not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts of interest or appearances thereof. The Commissioner shall receive the recommendations of the Advisory Board prior to promulgating or revising any such regulations.

CHAPTER 6.1.

DEPARTMENT OF REHABILITATIVE AND DISABILITY SERVICES.

Article 1.

General Provisions.

§51.5-30.1. Definitions.

As used in this title, unless the context requires a different meaning:

"Board" means the Advisory Board for the Deaf and Hard-of-Hearing.

"Case management" is a dynamic collaborative process that utilizes and builds on the strengths and resources of consumers to assist them in identifying their needs, accessing and coordinating services, and achieving their goals. The major collaborative components of case management services include advocacy, assessment, planning, facilitation, coordination, and monitoring.

"Case management system" is a central point of contact linking a wide variety of evolving services and supports that are (i) available in a timely, coordinated manner; (ii) physically and programmatically accessible; and (iii) consumer-directed with procedural safeguards to ensure responsiveness and accountability.

"Client" means any person receiving a service provided by the personnel or facilities of a public or private agency, whether referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner of Rehabilitative and Disability Services.

"Consumer" is, with respect to case management services, a person with a disability or his designee, guardian, conservator, or committee.

"Council" means the State Rehabilitation Council.

"Department" means the Department of Rehabilitative and Disability Services.

"Mental impairment" means (i) a disability attributable to mental retardation, autism, or any other neurologically-handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual. For the purposes of § 51.5-41, the term "mental impairment" does not include active alcoholism or current drug addiction and does not include any mental impairment, disease, or defect that has been successfully asserted by an individual as a defense to any criminal charge.

"Otherwise qualified person with a disability" means a person with a disability who:

1. For the purposes of § 51.5-41, is qualified to perform the duties of a particular job or position; or

2. For the purposes of § 51.5-42, meets all the requirements for admission to an educational institution or meets all the requirements for participation in its extracurricular programs.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or has a record of such impairment and that:

1. For purposes of § 51.5-41, is unrelated to the individual's ability to perform the duties of a particular job or position or is unrelated to the individual's qualifications for employment or promotion;

2. For purposes of § 51.5-42, is unrelated to the individual's ability to utilize and benefit from educational opportunities, programs, and facilities at an educational institution;

3. For purposes of § 51.5-44, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation or public service;

4. For purposes of § 51.5-45, is unrelated to the individual's ability to acquire, rent, or maintain property.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is

caused by bodily injury, birth defect, or illness.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

§ 51.5-30.2. Persons who are deaf or hard-of-hearing defined and categorized.

For the purposes of this chapter, persons who are deaf or hard-of-hearing include those who experience hearing losses that range from a mild hearing loss to a profound hearing loss. They are categorized as follows:

1. Persons who are deaf are those whose hearing is totally impaired or whose hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken communication is through visual input such as lip-reading, sign language, finger spelling, reading or writing.

2. Persons who are hard-of-hearing are those whose hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without a hearing aid.

Article 2.

The Department and Commissioner.

§ 51.5-30.3. Department of Rehabilitative and Disability Services created.

There shall be in the executive branch of the state government the Department of Rehabilitative and Disability Services. The Department shall be assigned to the Secretary of Health and Human Resources.

§ 51.5-30.4. Department designated as state agency for purpose of cooperation with federal government.

A. The Department is designated as the state agency for the purpose of cooperating with the federal government in carrying out the provisions and purposes of the federal Rehabilitation Act and is empowered and directed to cooperate with the federal government in the administration of such act, to prescribe and provide services as may be necessary for the rehabilitation of persons with disabilities, to provide for the supervision of such services, and to disburse and administer federal funds provided for the rehabilitation of such persons.

B. The Department is authorized to receive, for and on behalf of the Commonwealth and its subdivisions, from the United States and agencies thereof, and from any and all other sources, gifts and grants-in-aid, made for the purpose of providing, or to assist in providing, services to the blind or vision impaired, including expenses of administration.

The Department is designated as a state agency for the purpose of cooperating with the federal government in carrying out the provisions and purposes of federal laws providing for the vocational rehabilitation and other rehabilitation of eligible blind and vision impaired persons. The Department is authorized and directed to cooperate with the federal government in the administration of such laws of Congress; to prescribe and provide such courses of career and technical education and other services as may be necessary for the rehabilitation of blind and vision impaired persons and provided for the supervision of such training and services; and to direct the disbursement and administer the use of all funds provided by the federal government to the Commonwealth for the vocational rehabilitation and other rehabilitation of such persons. All such funds shall be paid into the state treasury.

C. The Department shall cooperate with the federal Department of Education and any other agencies of the United States, in any reasonable manner that may be necessary for the Commonwealth to qualify for and to receive grants or aid from such agencies for social services, rehabilitation, personal adjustment, and library and education services to the blind or vision impaired in conformity with the provisions of this chapter, including the making of such reports in such form and containing such information as such agencies of the United States may require, and to comply with such provisions as such agencies of the United States may require to assure the correctness and verification of such reports.

§ 51.5-30.5. Commissioner of Department.

The supervision of the Department shall be the responsibility of the Commissioner of the Department under the direction and control of the Governor and the Secretary of Health and Human Resources. The Commissioner shall be a person of proven executive and administrative knowledge, skills and abilities, with appropriate education and substantial experience in the field of rehabilitative services. He shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor for a term coincident with that of the Governor.

The Commissioner may be either a person who is deaf or hard-of-hearing or one with normal hearing, but shall be a trained professional who is experienced in problems of the deaf and hard-of-hearing and skilled in the use of manual communication, commonly referred to as sign language.

1288 § 51.5-30.6. Powers and duties of Commissioner.
1289 The Commissioner shall have the following powers and duties:
1290 1. To employ such personnel, qualified by knowledge, skills, and abilities, as may be required to
1291 carry out the purposes of this title relating to the Department;
1292 2. To make and enter into all contracts and agreements necessary or incidental to the performance
1293 of the Department's duties and the execution of its powers under this title, including, but not limited to,
1294 contracts with the United States, other states, and agencies and governmental subdivisions of the
1295 Commonwealth;
1296 3. To accept grants from the United States government and agencies and instrumentalities thereof
1297 and any other source and, to these ends, to comply with such conditions and execute such agreements
1298 as may be necessary, convenient, or desirable;
1299 4. To do all acts necessary or convenient to carry out the purposes of this title;
1300 5. To develop and analyze information on the needs of persons with disabilities;
1301 6. To establish plans, policies, and programs for the delivery of services to persons with disabilities
1302 for consideration by the Governor and the General Assembly. Such policies, plans, and programs for
1303 services to those who cannot benefit from vocational rehabilitation shall be prepared over time, and as
1304 funds become available for such efforts;
1305 7. To operate and maintain the Woodrow Wilson Rehabilitation Center and to organize, supervise
1306 and provide other necessary services and facilities (i) to prepare persons with disabilities for useful and
1307 productive lives, including suitable employment, and (ii) to enable persons with disabilities, to the
1308 degree possible, to become self-sufficient and have a sense of well-being;
1309 8. To develop criteria for the evaluation of plans and programs relative to the provision of
1310 rehabilitative and other services;
1311 9. To investigate the availability of funds from any source for planning, developing, and providing
1312 services to persons with disabilities, particularly those not capable of being gainfully employed;
1313 10. To coordinate the Department's plans, policies, programs, and services, and such programs and
1314 services required under § 51.5-30.16, with those of the other state agencies providing services to
1315 persons with disabilities so as to achieve maximum utilization of available resources to meet the needs
1316 of such persons;
1317 11. To compile and provide information on the availability of federal, state, regional, and local funds
1318 and services for persons with disabilities;
1319 12. To accept, execute, and administer any trust in which the Department may have an interest,
1320 under the terms of the instruments creating the trust, subject to the approval of the Governor;
1321 13. To adopt regulations necessary to carry out the provisions of the laws of the Commonwealth
1322 administered by the Department;
1323 14. To ensure that the provisions of Chapter 12 (§ 51.5-60 et seq.) of this title are properly
1324 administered;
1325 15. To assist and cooperate with local authorities in the administration of Chapter 12 of this title;
1326 16. To prescribe the form of applications, reports, affidavits, and such other forms as shall be
1327 required in the administration of Chapter 12 of this title and the required schedule for submission
1328 thereof;
1329 17. To develop a program to inform persons who are deaf or hard-of-hearing and the public of
1330 opportunities available for persons who are deaf or hard-of-hearing to fulfill their needs and solve
1331 certain problems through existing state and local services, and to make available such other information
1332 as would be of value to families, professionals, and other citizens working or involved in the deafness
1333 field;
1334 18. To promote a framework for consultation and cooperation among the state agencies and
1335 institutions serving persons who are deaf or hard-of-hearing;
1336 19. To aid in the provision of technical assistance and training within the Commonwealth in order to
1337 support efforts to initiate or improve programs and services for persons who are deaf or
1338 hard-of-hearing;
1339 20. To evaluate state programs that deliver services to persons who are deaf or hard-of-hearing to
1340 determine their effectiveness and to make recommendations to the appropriate government officials
1341 concerning the future financial support and continuation of such programs and the establishment of the
1342 new ones;
1343 21. To monitor state programs delivering services to persons who are deaf or hard-of-hearing to
1344 determine the extent to which services promised or mandated are delivered;
1345 22. To make appropriate recommendations for legislative changes to the Governor and General
1346 Assembly and to follow and evaluate federal legislation having a potential impact upon persons who are
1347 deaf or hard-of-hearing who live in the Commonwealth;
1348 23. To cooperate with schools for the deaf as provided in Chapter 19 (§ 22.1-346 et seq.) of Title
1349 22.1 insofar as may be practicable;

24. To operate a program of technology assistance and services to encourage independence of persons who are deaf, hard-of-hearing, or speech impaired, including the distribution of devices for the deaf and support of message relay services, through grants, contracts, and other means, including a sliding fee scale where appropriate; and

25. To perform such other duties as may be required by the Governor and the Secretary of Health and Human Resources.

§ 51.5-30.7. Commissioner to establish regulations regarding human research.

The Commissioner shall adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or authorized by the Department, any sheltered workshop, or independent living center, or Woodrow Wilson Rehabilitation Center. The regulations shall require the human research review committee, as provided in § 32.1-162.19, to submit to the Governor, the General Assembly, and the Commissioner or his designee, at least annually, a report on the human research projects reviewed and approved by the committee and shall require the committee to report any significant deviations from the proposals as approved.

§ 51.5-30.8. Cooperation of Department with other state departments.

The Department shall collaborate with the Department of Mental Health, Mental Retardation and Substance Abuse Services in activities related to licensing providers of services under the Individual and Families Developmental Disabilities Support Waiver. These activities include involving advocacy and consumer groups who represent persons with developmental disabilities in the regulatory process; training the Department of Mental Health, Mental Retardation and Substance Abuse Services, local human rights committees, and the State Human Rights Committee on the unique needs and preferences of individuals with developmental disabilities; assisting in the development of regulatory requirements for such providers; and providing technical assistance in the regulatory process and in performing annual inspections and complaint investigations.

§ 51.5-30.9. Gifts and donations.

The Department is authorized to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions related to the rehabilitation of persons with disabilities as in the judgment of the Department are proper and consistent with this title. All moneys received as gifts or donations shall be deposited in the state treasury, shall constitute a permanent fund to be called the special fund for persons with disabilities, and shall be used by the Department to defray the expenses in performing its duties. Such moneys may also be used in matching federal grants. A full report of all gifts and donations offered and accepted, the names of the donors, the respective amounts contributed by each donor, and all disbursements of such gifts and donations shall be submitted annually to the Governor by the Department.

§ 51.5-30.10. Donation of equipment.

The Department shall retain title to items of nonexpendable equipment purchased by the Department for individuals or groups of individuals, in accordance with this title and the federal Rehabilitation Act, while such equipment has an undepreciated monetary value. Once the equipment reaches a depreciated value of zero, the Department may donate the equipment to the individual or group of individuals then authorized to use it by the Department. The donation shall be consistent with the public purpose of promoting the rehabilitation of persons with disabilities. The Department, in concert with the Department of Accounts, shall establish criteria for depreciation of such equipment in accordance with generally accepted accounting principles and maintain depreciation records. The Department shall report a donation pursuant to this section to the Division of Purchases and Supply and to the Auditor of Public Accounts. Nothing in this section shall be construed to excuse the Department from complying with § 2.2-1124 except for equipment donated pursuant to this section.

§ 51.5-30.11. Statewide interpreter service.

The Department is authorized to establish, maintain, and coordinate a statewide service to provide courts, state and local legislative bodies and agencies, both public and private, and persons who are deaf or hard-of-hearing who request the same with qualified interpreters for persons who are deaf or hard-of-hearing out of such funds as may be appropriated to the Department for these purposes.

Those courts and state and local agencies that have funds designated to employ qualified interpreters shall pay for the actual cost of such interpreter. The Department is further authorized to establish and maintain lists of qualified interpreters for persons who are deaf or hard-of-hearing to be available to the courts, state and local legislative bodies and agencies, both public and private, and to persons who are deaf or hard-of-hearing.

The Department is authorized to charge a reasonable fee for the administration of quality assurance screening of interpreters. Such fees shall be applied to the costs of administering the statewide interpreter service.

For purposes of this section, a qualified interpreter shall be one who holds at least one of the

1411 following credentials:

- 1412 1. Certification from any national organization whose certification process has been recognized by
1413 the Department for Rehabilitative and Disability Services;
1414 2. A current screening level awarded by the Virginia Quality Assurance Screening Program of the
1415 Department for Rehabilitative and Disability Services; or
1416 3. A screening level or recognized evaluation from any other state when (i) the credentials meet the
1417 minimum requirements of Virginia Quality Assurance Screening and (ii) the credentials are valid and
1418 current in the state issued.

1419 Article 3.

1420 State Rehabilitation Council and Advisory Board for the Deaf and Hard-of-Hearing.

1421 § 51.5-30.12. Creation of the State Rehabilitation Council; purpose; membership.

1422 The State Rehabilitation Council is established as a designated state council in the executive branch
1423 of government for the purpose of providing advice to and performing other functions for the Department
1424 of Rehabilitative and Disability Services regarding its programs, including vocational services provided
1425 pursuant to Title I and Title VI of the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. and
1426 29 U.S.C. § 795 et seq., respectively). Membership, terms, and meeting requirements shall be in
1427 accordance with federal provisions as provided in 29 U.S.C. § 725.

1428 § 51.5-30.13. Powers and duties of Council.

1429 The Council shall exercise the following general powers and duties:

- 1430 1. Provide access to the Department;
1431 2. Publicize the policies and programs of the Department in order to educate the public and elicit
1432 public support for the Department's programs;
1433 3. Monitor the activities of the Department and have the right of access to Department information,
1434 provided that such access does not violate the confidentiality of client records;
1435 4. Advise the Governor, the Secretary of Health and Human Resources, the Commissioner, and the
1436 General Assembly on the delivery of public services to and the protection of the rights of persons with
1437 disabilities on matters relating to this title, and on such other matters as the Governor, Secretary,
1438 Commissioner, or the General Assembly may request;
1439 5. Advise on programmatic and fiscal policies governing the provision of services by the Department
1440 and the awarding of grants or contracts to any person or any public or private agency by the
1441 Department;

1442 6. Review and comment on all budgets and requests for appropriations for the Department prior to
1443 their submission to the Secretary of Health and Human Resources and the Governor and on all
1444 applications for federal funds;

1445 7. Advise on such regulations as may be necessary to carry out the provisions of the laws of the
1446 Commonwealth administered by the Commissioner of the Department; and

1447 8. Perform such other duties as may be prescribed to the Council by Title I and Title VI of the
1448 federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. and 29 U.S.C. § 795 et seq., respectively).

1449 § 51.5-30.14. Advisory Board for the Deaf and Hard-of-Hearing established; appointment, terms and
1450 qualifications of members; meetings; chairman.

1451 There is hereby continued an Advisory Board for the Deaf and Hard-of-Hearing. The Board shall be
1452 composed of nine members appointed by the Governor as follows: four representatives of
1453 deafness-oriented professions concerned with the health, education, rehabilitation, mental health, and
1454 welfare of the deaf and hard-of-hearing; four citizens who are deaf or hard-of-hearing; and one member
1455 who is a parent of a child who is deaf or hard-of-hearing. Appointments shall be for terms of four
1456 years. No person shall be eligible to serve more than two successive terms, except that a person
1457 appointed to fill a vacancy may serve two additional successive four-year terms. The Board shall meet
1458 at the call of the chairman, who shall be selected by the Board from among its membership, but no less
1459 than four times a year.

1460 § 51.5-30.15. Powers and duties of Board.

1461 The Advisory Board for the Deaf and Hard-of-Hearing shall have the following powers and duties:

- 1462 1. To ensure the development of long-range programs and plans provided by the state and local
1463 governments for Virginians who are deaf or hard-of-hearing;
1464 2. To review and comment on all budgets and requests for appropriations for the Department prior
1465 to their submission to the Secretary of Health and Human Resources and the Governor and on all
1466 applications for federal funds; and
1467 3. To advise the Governor, Secretary of Health and Human Resources, Commissioner, and the
1468 General Assembly on matters related to Virginians who are deaf or hard-of-hearing.

1469 Article 4.

1470 Rehabilitative Services.

1471 § 51.5-30.16. Long-Term Rehabilitative Case Management System.

1472 The Department shall develop and pilot a model for the initiation of a Long-Term Rehabilitative

Case Management System. Such system shall provide for the coordination of medical, psychosocial, vocational, rehabilitative, long-term care, and family and disability support services for persons with functional and central nervous system disabilities.

The Department shall facilitate the provision of such services by the Department and any other state, local, public or private nonprofit agency, organization, or facility to such persons.

§ 51.5-30.17. Eligibility for long-term rehabilitative case management.

A person shall be eligible to receive long-term rehabilitative case management services pursuant to § 51.5-30.16 if he is determined by the Department to be disabled indefinitely; requires a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are lifelong or for an extended duration and are individually planned and coordinated; or his disability results in substantive functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency.

§ 51.5-30.18. Central registry; information contained therein to be confidential.

A. The Department shall establish and maintain a central registry of persons who sustain spinal cord injury other than through disease, whether or not permanent disability results, and brain injury if permanent disability is likely to result, in order to facilitate the provision of appropriate rehabilitation services by the Department and other state agencies to such persons. The Department, in cooperation with organizations representing persons with disabilities maintained by the central registry, shall establish and pilot a mechanism that utilizes the data maintained by the central registry pursuant to this section to provide client identification, follow-up and outreach; maintain accurate and up-to-date records concerning the client's functional level and need for services; and facilitate better analysis and utilization of such data for effective program, policy, and fiscal planning purposes.

B. Every hospital and attending physician shall report to the Department by the most expeditious means within 30 days after identification of any person sustaining brain injury and within seven days after identification of any person sustaining spinal cord injury. The report shall contain the name, age, and residence of the person; date and cause of the injury; and such additional information as the Department may deem necessary.

C. Information contained in the registry concerning individuals shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall be confidential for purposes other than those directly connected with the administration of programs under the Department's jurisdiction or as required by other agencies of the Commonwealth. Information needed for research purposes may be made available to an organization or individual engaged in research only for purposes directly connected with the administration of programs relating to persons with disabilities, including research for the development of new knowledge or techniques that would be useful in the administration of the program; however, the organization or individual must furnish satisfactory assurance that the information will be used solely for the purpose for which it is provided, that it will not be released to persons not connected with the study under consideration, and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the Department without the written consent of the person, or his legally authorized parent or guardian, and the Department.

§ 51.5-30.19. Authority of Department concerning environmental barriers.

A. The Department shall promote cooperation in the efforts of public and, when requested, private agencies to prevent or eliminate environmental barriers that infringe upon the rights of persons with disabilities under this title or otherwise prevent persons with disabilities from leading normal, productive lives. For the purposes of this section, "environmental barrier" means any things, conditions, or influences that restrain or obstruct a person with a disability in his efforts to live a normal, productive life.

B. To carry out the purposes of this section, the Department shall:

1. Make surveys of the nature and extent of environmental barriers and issue reports thereon;
2. Provide information to the public concerning standards for the prevention and elimination of barriers and serve as liaison for groups of persons with disabilities in this field;
3. Evaluate the effectiveness of the Uniform Statewide Building Code, the provisions of this chapter, and other state laws and policies in removing environmental barriers; and
4. Coordinate its activities concerning state buildings with the Division of Engineering and Buildings, and coordinate its activities concerning other buildings with the Department of Housing and Community Development.

C. Nothing in this section shall be construed to authorize the Department to require building modifications not required by the applicable building code.

Article 5.

Vocational Rehabilitation.

1534 § 51.5-30.20. Eligibility.

1535 The Commissioner shall adopt written standards for determining eligibility for vocational
1536 rehabilitation services provided or funded, in whole or in part, by the Department, which assure that
1537 eligibility is determined without regard to sex, race, national origin, religion, or type of impairment of
1538 the person applying for services and is determined solely by reference to specific written criteria.

1539 § 51.5-30.21. Assessment.

1540 When an individual applies for vocational rehabilitation services provided or funded by the
1541 Department, in whole or in part, an assessment shall be made to determine eligibility for benefits
1542 according to the standards adopted pursuant to § 51.5-30.25. If, after an assessment, eligibility is
1543 established, a comprehensive assessment shall be conducted to ascertain the nature and scope of
1544 services needed by the applicant. Both assessments shall be carried out with the involvement of the
1545 applicant and his parents or guardian, if appropriate. Both assessments shall include, when appropriate:
1546 (i) a review of existing data and, to the extent necessary, the provision of appropriate assessment
1547 activities to obtain necessary data to determine eligibility and services needed; (ii) referral for the
1548 provision of rehabilitation technology services to assess and develop the individual's capacities to
1549 perform in a work environment; and (iii) referral to other agencies and organizations for appropriate
1550 assessment services.

1551 § 51.5-30.22. Individualized plan for employment.

1552 A written individualized plan for employment for each recipient of vocational rehabilitation services
1553 provided or funded by the Department, in whole or in part, shall be developed within a reasonable time
1554 and agreed to and signed by the client, his parents or guardian, if appropriate, and a qualified
1555 vocational rehabilitation counselor employed by the department. The plan shall be reviewed at least
1556 annually by the client, his parents or guardian, if appropriate, and the qualified vocational
1557 rehabilitation counselor.

1558 § 51.5-30.23. Services for individuals.

1559 A. Vocational rehabilitation services provided by the Department shall address comprehensively the
1560 individual needs of each client to the maximum extent possible with resources available to the
1561 Department, through the following:

1562 1. An assessment for determining eligibility and vocational needs by qualified personnel, including, if
1563 appropriate, an assessment by personnel skilled in rehabilitation technology;

1564 2. Counseling and guidance, including information and support services to assist an individual in
1565 exercising informed choice, and referral necessary to help applicants or clients to secure needed
1566 services from other agencies;

1567 3. Diagnosis and treatment of physical or mental impairments, including:

1568 a. Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical
1569 or mental condition that constitutes a substantial impediment to employment, but that is of such a nature
1570 that correction or modification may reasonably be expected to eliminate or reduce such impediment to
1571 employment within a reasonable length of time;

1572 b. Necessary hospitalization in connection with surgery or treatment;

1573 c. Prosthetic and orthotic devices;

1574 d. Eyeglasses and visual services as prescribed by qualified personnel who meet state licensure laws
1575 and who are selected by the client;

1576 e. Special services (including transplantation and dialysis), artificial kidneys, and supplies necessary
1577 for the treatment of clients with end-stage renal disease; and

1578 f. Diagnosis and treatment for mental and emotional disorders by qualified personnel who meet state
1579 licensure laws;

1580 4. Vocational and other training services, including the provision of personal and
1581 vocational-adjustment services, books, tools, and other training materials, except that no training
1582 services provided at institutions of higher education shall be paid for with funds under this chapter
1583 unless maximum efforts have been made to secure grant assistance in whole or part from other funding
1584 sources;

1585 5. Maintenance for additional costs incurred while participating in an assessment for determining
1586 eligibility and vocational rehabilitation needs or while receiving services under an individualized plan
1587 for employment;

1588 6. Transportation, including adequate training in the use of public transportation vehicles and
1589 systems that is provided in connection with the provision of any other services described in this section
1590 and needed by the client to achieve an employment outcome;

1591 7. Services to members of a client's family when such services are necessary to assist the client to
1592 achieve an employment outcome;

1593 8. Interpreter services provided by qualified personnel for clients who are deaf or hard-of-hearing
1594 and reader services for clients determined to be blind, after an examination by qualified personnel who
1595 meet state licensure laws;

9. Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

10. Job-related services, including job search and assistance, job retention services, follow-up services, and follow-along services;

11. Specific post-employment services necessary to assist the client to retain, regain, or advance in employment;

12. Occupational licenses, tools, equipment, and initial stocks and supplies;

13. On-the-job or other related personal assistance services provided while a client is receiving other services described in this section;

14. Supported employment services, which include providing a rehabilitation or other human services agency staff person to assist in job placement, job site training, and job follow-through for the disabled employee;

15. Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible clients pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome; and

16. Transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the individualized plan for employment.

B. Written standards shall be established by the Commissioner detailing the scope and nature of each vocational rehabilitation service authorized herein, the conditions, criteria, and procedures under which each service may be provided, and the use of entitlements and other benefits to access these services, when appropriate.

C. In providing the foregoing services, the Department shall determine whether comparable services and benefits are available under any other program, unless such a determination would interrupt or delay the progress of the client toward achieving the employment outcome identified in the individualized plan for employment, an immediate job placement, or the provision of such service to any client at extreme medical risk.

§ 51.5-30.24. Services for groups.

Vocational rehabilitation services provided by the Department for the benefit of groups shall include, to the maximum extent possible with the resources available to the Department:

1. The establishment, development, or improvement of community rehabilitation programs;

2. The provision of other services that promise to contribute significantly to rehabilitation of a group of clients, but that are not directly related to the individualized plan for employment of any one client;

3. The use of telecommunications systems, including telephone, television, satellite, radio, and other similar systems that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;

4. Technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.); and

5. Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

§ 51.5-30.25. Community rehabilitation program.

When any part of the written individualized plan for employment of a client of the Department includes services in a community rehabilitation program (CRP), that portion of the plan shall be developed jointly with the rehabilitation counselor, a qualified staff member of the CRP, and the client and, when appropriate, his parents or guardian. Factors to be considered shall include, but not be limited to, proposed activities, activity schedule, and the impact of the activity on the welfare of the client, the client's family, and his community.

When a case is closed upon a client's placement in extended employment in a CRP, the case shall be reviewed by the Department, with the cooperation of the CRP, within 12 months of case closure.

§ 51.5-30.26. Participation by clients in cost of services.

The Commissioner shall adopt written standards for determining the extent to which clients shall be responsible for the cost of vocational rehabilitation services provided or funded by the Department. However, the provision of the following services by the Department shall not be conditioned on the client's or applicant's ability to pay for the cost of those services: (i) evaluation of rehabilitation potential, except for vocational services other than those of a diagnostic nature which are provided under an extended evaluation of rehabilitation potential; (ii) counseling, guidance, and referral services; and (iii) placement and follow-up. The Department shall maximize financial participation of persons receiving services and shall maximize reimbursement from responsible third party payors.

§ 51.5-30.27. Client rights regarding services.

The Commissioner shall establish written standards governing the rights of applicants for and clients

1657 who receive vocational rehabilitation services which are provided or funded by the Department. The
1658 Department shall educate clients and staff regarding those rights and provide a procedure for fairly and
1659 impartially resolving conflicts and complaints about alleged violations of those rights. The Department
1660 shall make referrals consistent with the provisions of 29 U.S.C. § 732.

1661 Article 6.

1662 Community Services.

1663 § 51.5-30.28. Awarding of grants; purposes; eligible applicants.

1664 A. The Department is authorized, subject to other requirements of this law, to make grants or enter
1665 into contracts, in accordance with rules and regulations of the Commissioner, for the following
1666 purposes:

1667 1. To promote a philosophy of independent living, including a philosophy of consumer control, peer
1668 support, self-help, self-determination, equal access, and individual and system advocacy, in order to
1669 maximize the leadership, empowerment, independence, and productivity of individuals with disabilities
1670 and the integration and full inclusion of individuals with disabilities into the mainstream of society by:

1671 a. Providing financial assistance for expanding and improving the provision of independent living
1672 services; and

1673 b. Providing financial assistance to develop and support a statewide network of centers for
1674 independent living;

1675 2. To provide personal care assistance to persons with significant disabilities; and

1676 3. To assist employers in employing, training, and providing other related services to persons with
1677 significant disabilities.

1678 B. Applications for the grants and contracts authorized in subdivision A 1 may be made by eligible
1679 agencies. Applicants will be eligible if they are a consumer-controlled, community-based,
1680 cross-disability, nonresidential, private nonprofit agency that (i) is designed and operated within a local
1681 community by individuals with disabilities and (ii) provides an array of independent living services.
1682 Each applicant shall be established for the sole purpose of operating the center for independent living.
1683 Each applicant shall establish a governing board, the majority of whose members shall be persons with
1684 disabilities, for the sole purpose of operating the independent living center.

1685 C. Applications for the grants and contracts authorized in subdivision A 2 may be made by persons
1686 with significant disabilities for the provision of personal care assistance.

1687 D. Applications for the grants and contracts authorized in subdivision A 3 may be made by
1688 employers in the Commonwealth who wish to take affirmative steps to employ and advance in
1689 employment persons with disabilities.

1690 § 51.5-30.29. Independent living services.

1691 Independent living services provided pursuant to this chapter shall be provided in accordance with
1692 the federal Rehabilitation Act of 1973, as amended.

1693 § 51.5-30.30. Centers for independent living.

1694 A. Services provided through grants or contracts with centers for independent living pursuant to this
1695 chapter shall include:

1696 1. Advocacy;

1697 2. Peer counseling;

1698 3. Independent living skills training; and

1699 4. Information and referral.

1700 Services may include other services deemed necessary by the local consumer base.

1701 B. Centers for independent living funded in whole or in part by the Department shall be staffed by
1702 persons with disabilities who are trained in the philosophy of independent living. The majority of
1703 management staff shall include persons with disabilities.

1704 § 51.5-30.31. Statewide Independent Living Council created.

1705 The Statewide Independent Living Council is hereby created to jointly plan with the Department of
1706 Rehabilitative and Disability Services activities carried out under Title VII of the federal Rehabilitation
1707 Act of 1973 (29 U.S.C. § 796 et seq.) and to provide advice to the Department regarding such activities.
1708 Membership and duties shall be constructed according to federal provisions. The Department shall
1709 provide staff support for the Council.

1710 § 51.5-30.32. Projects with employers.

1711 A. Projects with employers pursuant to this article shall be designed to provide vocational
1712 rehabilitation in a realistic employment setting and to provide on-the-job training for persons with
1713 disabilities.

1714 B. Services provided by an employer may include:

1715 1. Job orientation;

1716 2. On-the-job training;

1717 3. Job-related basic education;

1718 4. Job coaching and supportive services;

5. Supervisory and human relations training;
 6. Special equipment and building alteration; and
 7. Other services necessary to prepare persons with disabilities for competitive employment and to assist them during employment.

§ 51.5-30.33. Eligibility criteria.

The Commissioner shall establish eligibility criteria for services to be applied by programs awarded grants pursuant to this article. Such criteria shall provide that:

1. Eligibility shall be determined without regard to sex, race, national origin, religion, or type of impairment of the person applying for the service; and

2. Preference shall be given to applicants for services whose impairments are so severe that they do not presently have the potential for employment, but whose ability to live and function independently within their family settings or communities may be improved by the services for which they have applied.

§ 51.5-30.34. Participation by clients in cost of services.

The Commissioner shall establish written standards for determining the extent to which a client shall be financially responsible for the cost of services funded in whole or in part by the Department. Each public or private agency awarded a grant or contract in accordance with § 51.5-30.28 shall utilize the Commissioner's regulations to maximize the financial participation of persons receiving services.

§ 51.5-30.35. Rights of clients.

The Commissioner shall establish written standards governing the rights of clients of services provided by public or private agencies in accordance with § 51.5-30.28. Each such public and private agency shall educate clients and staff regarding those rights and shall provide a procedure to fairly and impartially resolve conflicts and complaints about alleged violations of those rights. Each such agency shall make referrals consistent with the provisions of 29 U.S.C. § 732.

§ 51.5-30.36. Cooperative agreements with community services boards and schools.

No services funded under the authority of this chapter shall be provided to:

1. Persons whose primary impairment is mental illness, mental retardation, or substance abuse, except by cooperative agreement with the local community services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 when that board is currently offering the same services; or

2. Public school-aged persons, except by cooperative agreement with that person's school.

§ 51.5-31. Virginia Board for People with Disabilities created.

There shall be a Virginia Board for People with Disabilities, responsible to the Secretary of Health and Human Resources. The Board shall be composed of 40 38 members, to include the head or a person designated by the head of the Department for the Aging, ~~Department for the Deaf and Hard of Hearing,~~ Department of Education, Department of Medical Assistance Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, ~~and the Department of Rehabilitative and Disability Services; and the Department for the Blind and Vision Impaired;~~ one representative of the protection and advocacy agency; one representative of the university-affiliated facility; one representative each, to be appointed by the Governor, of a local governmental agency, a manufacturing or a retailing industry, a high-technology industry, a public transit interest, and a nongovernmental agency or group of agencies that provide services for persons with developmental disabilities; a banking executive; one person with disabilities other than developmental disabilities; and 24 persons with developmental disabilities or the parents or guardians of such persons. Of the last 24 persons, at least eight shall be persons with developmental disabilities; at least eight shall be immediate relatives or guardians of persons with mentally impairing developmental disabilities; and at least one person shall be an immediate relative or guardian of an institutionalized person with a developmental disability.

Each member appointed by the Governor shall be appointed for a four-year term, except that of the members appointed in 1989, eight shall be appointed for a term of four years, eight shall be appointed for a term of three years, eight shall be appointed for a term of two years, and seven shall be appointed for a term of one year. Members so appointed shall be subject to removal at the pleasure of the Governor. Any vacancy other than by expiration of a term shall be filled for the unexpired term. No person appointed by the Governor shall serve for more than two successive terms.

The Board shall elect its chairman.

§ 51.5-39.2. The Virginia Office for Protection and Advocacy; governing board; terms; quorum; expenses; summary of annual work.

A. The Department for Rights of Virginians with Disabilities is hereby established as an independent state agency to be known as the Virginia Office for Protection and Advocacy. The Office is designated as the agency to protect and advocate for the rights of persons with mental, cognitive, sensory, physical or other disabilities and to receive federal funds on behalf of the Commonwealth of Virginia to implement the federal Protection and Advocacy for Individuals with Mental Illness Act, the federal Developmental Disabilities Assistance and Bill of Rights Act, the federal Rehabilitation Act, the

1780 Virginians with Disabilities Act and such other related programs as may be established by state and
1781 federal law. Notwithstanding any other provision of law, the Office shall be independent of the Office of
1782 the Attorney General and shall have the authority, pursuant to subdivision 5 of § 2.2-510, to employ and
1783 contract with legal counsel to carry out the purposes of this chapter and to employ and contract with
1784 legal counsel to advise and represent the Office, to initiate actions on behalf of the Office, and to defend
1785 the Office and its officers, agents and employees in the course and scope of their employment or
1786 authorization, in any matter, including state, federal and administrative proceedings. Compensation for
1787 legal counsel shall be paid out of the funds appropriated for the administration of the Office. However,
1788 in the event defense is provided under Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2, counsel
1789 shall be appointed pursuant to subdivision 4 of § 2.2-510. The Office shall provide ombudsman,
1790 advocacy and legal services to persons with disabilities who may be represented by the Office. The
1791 Office is authorized to receive and act upon complaints concerning discrimination on the basis of
1792 disability, abuse and neglect or other denial of rights, and practices and conditions in institutions,
1793 hospitals, and programs for persons with disabilities, and to investigate complaints relating to abuse and
1794 neglect or other violation of the rights of persons with disabilities in proceedings under state or federal
1795 law, and to initiate any proceedings to secure the rights of such persons.

1796 B. The Office shall be governed by an 11-member board consisting of 11 nonlegislative citizen
1797 members. The members shall be appointed as follows: five citizens at large, of whom one shall be a
1798 person with a developmental disability or the parent, family member, guardian, advocate, or authorized
1799 representative of such an individual, one shall be a person with a physical disability or the parent,
1800 family member, guardian, advocate, or authorized representative of such an individual, one shall be a
1801 person who represents persons with cognitive disabilities, one shall be a person who represents persons
1802 with developmental disabilities, and one shall be a person who represents persons with sensory or
1803 physical disabilities, to be appointed by the Speaker of the House of Delegates; three citizens at large, of
1804 whom one shall be a person with a cognitive disability or the parent, family member, guardian,
1805 advocate, or authorized representative of such an individual, one shall be a person who represents
1806 persons with mental illnesses, and one shall be a person who represents people with mental or
1807 neurological disabilities, to be appointed by the Senate Committee on Rules; and three citizens at large,
1808 of whom one shall be a person with a mental illness or the parent, family member, guardian, advocate,
1809 or authorized representative of such an individual, one shall be a person with a sensory disability or the
1810 parent, family member, guardian, advocate, or authorized representative of such an individual, and one
1811 shall be a person with a mental or neurological disability or the parent, family member, guardian,
1812 advocate, or authorized representative of such an individual, to be appointed by the Governor. Persons
1813 appointed to the board to represent individuals with a disability shall be knowledgeable of the broad
1814 range of needs of such persons served by the Office. Persons appointed to the board who have a
1815 disability shall be individuals who are eligible for, are receiving, or have received services through the
1816 state system that protects and advocates for the rights of individuals with disabilities. In appointing the
1817 members of the Board, consideration shall be given to persons nominated by statewide groups that
1818 advocate for the physically, developmentally, and mentally disabled. The Virginia Office for Protection
1819 and Advocacy shall coordinate and provide to the appointing authorities the lists of nominations for each
1820 appointment. The Speaker of the House of Delegates, the Senate Committee on Rules and the Governor
1821 shall not be limited in their appointments to persons so nominated; however, such appointing authorities
1822 shall seriously consider the persons nominated and appoint such persons whenever feasible.

1823 No member of the General Assembly, elected official, or current employee of the Department of
1824 Mental Health, Mental Retardation and Substance Abuse Services, *State Department of Health*
1825 *Department, Department of Rehabilitative and Disability Services, Department for the Blind and Vision*
1826 *Impaired, Virginia Department for the Deaf and Hard-of-Hearing,* a community services board, a
1827 behavioral health authority, or a local government department with a policy-advisory community services
1828 board shall be appointed to the Board.

1829 C. Nonlegislative citizen members shall be appointed for a term of four years, following the initial
1830 staggering of terms. All members may be reappointed, except that any member appointed during the
1831 initial staggering of terms to a four-year term shall not be eligible for reappointment for two years after
1832 the expiration of his term. However, no nonlegislative citizen member shall serve more than two
1833 consecutive four-year terms. The remainder of any term to which a member is appointed to fill a
1834 vacancy shall not constitute a term in determining the member's eligibility for reappointment.
1835 Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired
1836 terms. Vacancies shall be filled in the same manner as the original appointments. All appointments and
1837 reappointments shall be subject to confirmation at the next session of the General Assembly. All
1838 appointments shall be confirmed by the affirmative vote of a majority of those voting in each house of
1839 the General Assembly. Members shall continue to serve until such time as their successors have been
1840 appointed and duly qualified to serve.

1841 D. The Board shall elect a chairman and a vice-chairman from among its members and appoint a

secretary who may or may not be a member of the Board. A majority of the members of the Board shall constitute a quorum.

The Board shall meet at least four times each year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the voting members so request. The chairman shall perform such additional duties as may be established by resolution of the Board.

E. Members shall serve without compensation for their services; however, all members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Virginia Office for Protection and Advocacy.

F. Members of the Board shall be subject to removal from office only as set forth in Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2. The Circuit Court of the City of Richmond shall have exclusive jurisdiction over all proceedings for such removal.

G. The chairman of the Board shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted to the General Assembly's website.

§ 51.5-39.7. Ombudsman services for persons with disabilities.

A. There is hereby created within the Office an ombudsman section. The Director shall establish procedures for receiving complaints and conducting investigations for the purposes of resolving and mediating complaints regarding any activity, practice, policy, or procedure of any hospital, facility or program operated, funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Rehabilitative *and Disability* Services, the Department of Social Services, or any other state or local agency, that is adversely affecting the health, safety, welfare or civil or human rights of any person with mental, cognitive, sensory or physical disabilities. After initial investigation, the section may decline to accept any complaint it determines is frivolous or not made in good faith. The ombudsman section shall attempt to resolve the complaint at the lowest appropriate level, unless otherwise provided by law. The procedures shall require the section to:

1. Acknowledge the receipt of a complaint by sending written notice to the complainant within seven days after receiving the complaint;

2. When appropriate, provide written notice of a complaint to the Department of Mental Health, Mental Retardation and Substance Abuse Services or any other appropriate agency within seven days after receiving the complaint. The Department or agency shall report its findings and actions no later than ~~fourteen~~ 14 days after receiving the complaint;

3. Immediately refer a complaint made under this section to the Department of Mental Health, Mental Retardation and Substance Abuse Services or any other appropriate governmental agency whenever the complaint involves an immediate and substantial threat to the health or safety of a person with mental retardation, developmental disabilities, mental illness, or other disability. The Department or agency receiving the complaint shall report its findings and actions no later than ~~forty-eight~~ 48 hours following its receipt of the complaint;

4. Within seven days after identifying a deficiency in the treatment of a person with a disability that is in violation of state or federal law or regulation, refer the matter in writing to the appropriate state agency. The state agency shall report on its findings and actions within seven days of receiving notice of the matter;

5. Advise the complainant and any person with a disability affected by the complaint, no more than ~~thirty~~ 30 days after it receives the complaint, of any action it has taken and of any opinions and recommendations it has with respect to the complaint. The ombudsman section may request any party affected by the opinions or recommendations to notify the section, within a time period specified by the section, of any action the party has taken on its recommendation; and

6. Refer any complaint not resolved through negotiation, mediation, or conciliation to the Director or the Director's designee to determine whether further protection and advocacy services shall be provided by the Office.

B. The ombudsman section may make public any of its opinions or recommendations concerning a complaint, the responses of persons and governmental agencies to its opinions or recommendations, and any act, practice, policy, or procedure that adversely affects or may adversely affect the health, safety, welfare, or civil or human rights of a person with a disability, subject to the provisions of § 51.5-39.8.

C. The Office shall publicize its existence, functions, and activities, and the procedures for filing a complaint under this section, and send this information in written form to each provider of services to persons with disabilities, with instructions that the information is to be posted in a conspicuous place accessible to patients, residents, consumers, clients, visitors, and employees. The Office shall establish, maintain and publicize a toll-free number for receiving complaints.

1903 § 51.5-47. Local boards; appointment; membership and staff.

1904 A. Every county and city shall establish, either singly or in combination with another political
1905 subdivision, a local disability services board by November 1, 1992, to provide input to state agencies on
1906 service needs and priorities of persons with physical and sensory disabilities, to provide information and
1907 resource referral to local governments regarding the Americans with Disabilities Act, and to provide
1908 such other assistance and advice to local governments as may be requested. Guidelines for the
1909 establishment of local disability services boards shall be developed by the Disability Services Council.
1910 As used in this chapter, the term "board" means a local disability services board. The board shall be
1911 responsible to the governing body or bodies of the county or city or combination thereof which
1912 established the board.

1913 B. The local governing bodies of the jurisdictions participating in the board shall determine the
1914 number of members on the board and appoint the members. The membership of a board shall not
1915 exceed ~~fifteen~~ 15. Membership shall include at least one local official from each of the participating
1916 jurisdictions, two representatives of the business community, and consumers. Each board shall have no
1917 less than ~~thirty~~ 30 percent representation by individuals or family members of individuals with physical,
1918 visual, or hearing disabilities.

1919 C. Where a local board or commission for the physically and sensory disabled appointed by a local
1920 governing body is already in existence, the local governing body may designate such board or
1921 commission as the local disability services board. In order to be designated as the local disability
1922 services board, the existing board or commission shall meet the membership representation requirements
1923 designated in subsection B.

1924 D. The Department of Rehabilitative *and Disability* Services shall administer the funds appropriated
1925 for local disability services boards, including staff support to the boards and, with appropriate
1926 consultation from the Department for the Blind and Vision Impaired and the Department for the Deaf
1927 and Hard-of-Hearing and other agencies, provide guidance and technical assistance to the local boards.
1928 Localities may provide additional staff support to the boards.

1929 E. Localities shall not be mandated to fund any recommendations made by the local board.

1930 § 51.5-49. Disability Services Council; membership and responsibilities.

1931 A. The Disability Services Council is hereby established. The Council shall consist of the
1932 Commissioner of the Department of Rehabilitative *and Disability* Services; ~~the Commissioner of the~~
1933 ~~Department for the Blind and Vision Impaired; the Director of the Department for the Deaf and~~
1934 ~~Hard-of-Hearing;~~ the Superintendent of Public Instruction; and three consumer members representing
1935 physical and sensory disabilities and one representative of local government to be appointed by the
1936 Governor. Of the consumer members to be appointed in 1994, one shall be appointed for a three-year
1937 term and two shall be appointed for one- and two-year terms, respectively. The local government
1938 representative shall be appointed for a three-year term. Thereafter, all appointments of the consumer and
1939 local government members shall be for terms of three years, except that appointments to fill vacancies
1940 shall be for the unexpired terms. The Governor shall appoint the chairman annually.

1941 B. The Council's duties shall include the following:

1942 1. Developing guidelines for local disability services boards to use in developing the local board
1943 reports. The Department of Rehabilitative *and Disability* Services shall distribute the guidelines to the
1944 boards;

1945 2. Developing a grant allocation system which requires a local match and annual guidelines for the
1946 grant applications for the state rehabilitative services incentive fund. The local match may be either
1947 public or private funds, or a combination, but in-kind contributions shall not be considered in the local
1948 match unless specifically approved by the Council. The Department of Rehabilitative *and Disability*
1949 Services shall distribute the guidelines to the boards annually;

1950 3. Providing a final review of the request proposals for awards from the state rehabilitative services
1951 incentive fund. Such review shall be for consistency with guidelines and to obtain information necessary
1952 for future guideline revisions; and

1953 4. Consulting with other state agencies as appropriate.

1954 § 51.5-50. State rehabilitative services incentive fund; establishment and administration.

1955 A. A state rehabilitative services incentive fund shall be established in and administered by the
1956 Department of Rehabilitative *and Disability* Services to meet programmatic and individual recipient
1957 needs not otherwise met through existing federal, state, or local programs, and to develop community
1958 programs to meet the needs of persons with physical and sensory disabilities. Local disability services
1959 boards electing to apply for a grant from the fund shall submit their grant proposal to the Department.
1960 The Department is authorized to make grants for programs and services for persons with physical and
1961 sensory disabilities to boards whose grant applications comply with the guidelines developed by the
1962 Disability Services Council.

1963 B. The Department shall prepare a summary of request proposals for awarding the fund which shall
1964 be submitted to the Disability Services Council for its review. The availability of grants from the fund

shall not be taken into consideration in, nor used to reduce, state or local appropriations or payments.

§ 51.5-52. Local interagency services teams.

In order to provide comprehensive services within a continuum of care, local agencies providing services to persons with physical and sensory disabilities may convene a local interagency services team to respond to the needs of individual consumers who require extensive coordination of services. Membership on the teams shall reflect the needs of the individual consumer and may include but shall not be limited to: representatives from the Department of Rehabilitative and Disability Services, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, community services boards, and local social services departments, health departments, and school divisions. When established, interagency services teams shall be responsible for conducting an assessment process across agencies to identify the strengths and needs of individual consumers, developing a rehabilitation plan, and integrating the array of required services. Interagency services teams shall report to the consumer's assigned case manager or counselor, as appropriate.

§ 51.5-60. Definitions.

The following terms whenever As used in this chapter, shall have the meanings respectively set forth unless a different unless the context requires another meaning is clearly required by the context:

"Blind person" means a person having not better than 20/200 central visual acuity in the better eye measured at ~~twenty~~ 20 feet with correcting lenses or having visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle of no greater than ~~twenty~~ 20 degrees, measured at a distance of ~~thirty-three~~ 33 centimeters using a three-millimeter white test object, or a Goldman III-4e target, or other equivalent equipment. Such blindness shall be certified by a duly licensed physician or optometrist.

"Board" means the Board for the Blind and Vision Impaired.

"Business enterprise" means any business other than a vending stand.

"Commissioner" means the Commissioner of the Department for the Blind and Vision Impaired of Rehabilitative and Disability Services.

"Custodian" means any person or group of persons having the authority to grant permission for the installation and operation of vending stands and other business enterprises.

"Department" means the Department for the Blind and Vision Impaired of Rehabilitative and Disability Services.

"Direct labor" means all work required for the preparation, processing and assembling of goods or articles including the packaging and packing thereof, but not including time spent in the supervision, administration, inspection and shipping of such operations, or in the production of component materials by other than blind persons.

"Goods or articles made by blind persons" means goods or articles in the manufacture of which not less than ~~seventy-five~~ 75 percent of the total hours of direct labor is performed by a blind person or persons.

"Nominee" means any nonprofit corporation familiar with work for the blind and in the placement of the blind.

"Public and private buildings and other properties throughout the Commonwealth" means (i) buildings, land, or other property owned by or leased to the Commonwealth other than rights-of-way for interstate highways or (ii) buildings, land, or other property owned by or leased to a political subdivision, including a municipality, or a corporation or individual.

"Vending machine" means a coin or currency operated machine that dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending stand" means an installation in any public or private building for the sale of newspapers, periodicals, confections, tobacco products, soft drinks, ice cream, wrapped foods and such other articles as may be approved by the custodian thereof and the Department.

Article 3.1.

Duties of Department.

§ 51.5-77.1. Register of the blind; reports required of physicians and others.

The Department shall prepare and maintain a complete register of the blind in the Commonwealth, which shall include information that the Department deems of value. Each physician, optometrist, or other person who, upon examination of the eyes of any person, determines that such person is a blind person as defined in § 51.5-60, shall immediately report the name and address of such person to the Department.

§ 51.5-77.2. Information contained in register to be confidential; conditions under which information released; penalty.

Information contained on the register referred to in § 51.5-77.1 concerning individuals shall be

2026 confidential for purposes other than those directly connected with the administration of programs under
2027 the Department's jurisdiction or as required by other agencies of the Commonwealth. Information
2028 needed for research purposes may be made available to an organization or individual engaged in
2029 research only for purposes directly connected with the administration of programs relating to the blind
2030 and vision impaired, including research for the development of new knowledge or techniques that would
2031 be useful in the administration of the program, but only if the organization or individual furnishes
2032 satisfactory assurance that the information will be used solely for the purpose for which it is provided;
2033 that it will not be released to persons not connected with the study under consideration; and that the
2034 final product of the research will not reveal any information that may serve to identify any person about
2035 whom information has been obtained through the Department without written consent of such person
2036 and the Department. If any person willfully discloses information concerning individuals except as
2037 provided herein, he shall be guilty of a Class 1 misdemeanor, and upon conviction, shall be punished
2038 accordingly.

2039 § 51.5-77.3. Establishment of standards of personnel and service.

2040 The Department shall, as to matters relating to rehabilitation of the blind or vision impaired,
2041 establish minimum standards of service and personnel based upon training, experience, and general
2042 ability for the personnel employed by the Department and the Commissioner in the administration of
2043 this chapter and adopt necessary regulations to maintain such standards, including such regulations as
2044 may be embraced in the development of a system of personnel administration meeting requirements of
2045 the federal Department of Education.

2046 § 51.5-77.4. State Rehabilitation Council for the Blind and Vision Impaired created.

2047 The State Rehabilitation Council for the Blind and Vision Impaired is hereby created to provide
2048 advice to the Department for the Blind and Vision Impaired regarding vocational services provided
2049 pursuant to Title I and Title VI of the federal Rehabilitation Act. Membership and duties shall be
2050 constructed according to federal provisions.

2051 § 51.5-77.5. Establishment of schools and manufacturing and service industries; expenditures.

2052 The Department may (i) establish, equip, and maintain schools for manufacturing and service
2053 industrial training for the employment of suitable blind persons; (ii) pay its employees suitable wages
2054 and contribute five percent of the creditable compensation of those employees who elect to participate in
2055 a before-tax payroll deduction to a tax deferred retirement savings plan established under the United
2056 States Internal Revenue Code for nonprofit agencies; and (iii) devise means for the sale and distribution
2057 of the products thereof. However, any expenditures made under § 51.5-63, subsection B of 51.5-30.4,
2058 § 51.5-77.1, and this section through § 51.5-77.10 shall not exceed the annual appropriation or the
2059 amount received by way of bequest or donation during any one year, and no part of the funds
2060 appropriated by the Commonwealth for the purposes of § 51.5-63, subsection B of § 51.5-30.4,
2061 § 51.5-77.1, and this section through 51.5-77.10 shall be used for solely charitable purposes.

2062 § 51.5-77.6. State Advisory Board for the Virginia Industries for the Blind established.

2063 A. The State Advisory Board for the Virginia Industries for the Blind (the Advisory Board) is
2064 established as an advisory board in the executive branch of state government. The purpose of the
2065 Advisory Board is to provide advice for creating opportunities in career development and
2066 employment-related services to blind and visually impaired individuals.

2067 B. The Advisory Board shall consist of 12 nonlegislative citizen members appointed by the Board for
2068 the Blind and Vision Impaired as follows: (i) three persons who shall be blind persons or parents of
2069 blind persons; (ii) three representatives of human service agencies; and (iii) six persons who represent
2070 local business and manufacturing entities and other employees. Members shall be appointed for a term
2071 of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the
2072 unexpired terms. All members may be reappointed. However, no member shall serve more than two
2073 consecutive three-year terms. The remainder of any term to which a member is appointed to fill a
2074 vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies
2075 shall be filled in the same manner as the original appointments.

2076 C. The Advisory Board shall elect a chairman and vice-chairman from among its membership. A
2077 majority of the voting members shall constitute a quorum. The meetings of the Advisory Board shall be
2078 held at the call of the chairman or whenever the majority of the members so request.

2079 D. Members shall not receive compensation for their service or travel expenses.

2080 E. The Advisory Board shall have the following powers and duties:

2081 1. Advise managers of the manufacturing plants on business trends, product development, contract
2082 opportunities, and other business matters;

2083 2. Review and comment on fiscal and budgetary matters concerning the operations of the
2084 manufacturing and service industries; and

2085 3. Perform such other advisory acts that are in accord with the purposes of this section.

2086 F. The Department shall provide staff support to the Advisory Board. All agencies of the
2087 Commonwealth shall provide assistance to the Advisory Board, upon request.

§ 51.5-77.7. *Rehabilitation Center for the Blind and Vision Impaired; operation and maintenance.*

The Department shall have the authority and responsibility for the operation and maintenance of the Virginia Rehabilitation Center for the Blind and Vision Impaired for the purpose of providing services to eligible blind and vision impaired individuals.

§ 51.5-77.8. *Operation of library service for persons with disabilities; agreement with The Library of Virginia.*

The Department is hereby authorized to maintain and operate a library service for persons who are blind, vision impaired, and disabled who are eligible for such services pursuant to the Pratt-Smoot Act (P.L. 89-522). Special materials that are provided through this program may include but are not limited to sound reproduction machines such as tape players and record players, talking book records, magnetic tapes, large print books, Braille books, book holders, page turners, captioned films for the deaf, and special electronic devices used as reading aids. The Department may enter into an agreement or agreements with The Library of Virginia for the purpose of receiving federal funds for the operation of this program.

§ 51.5-77.9. *Use of earnings of schools and workshops; record of receipts and expenditures.*

In furtherance of the purposes of § 51.5-63, subsection B of § 51.5-30.4, § 51.5-77.1, and §§ 51.5-77.5 through 51.5-77.10, the Department shall have authority to use any receipts or earnings that accrue from the operation of industrial schools and workshops as provided in such sections, but a detailed statement of receipts or earnings and expenditures shall be carefully kept.

§ 51.5-77.10. *Cooperation with other state agencies.*

The Department shall cooperate with the State Board of Health and other state agencies in the adoption and enforcement of blindness prevention efforts.

§ 51.5-105. *Certain acts declared misdemeanors.*

Any person, firm, corporation, institution or association, who (i) shall use or employ an imprint, stamp, symbol or label issued or approved by the Department for the ~~Blind and Vision Impaired~~ *Rehabilitative and Disability Services* or an imitation thereof without having registered with the Department, or (ii) who shall directly or indirectly by any means indicate or tend to indicate or represent that the goods or articles were made by a blind person or persons when in fact such goods or articles were not so made, or (iii) who violates any provision of § 51.5-104 shall be guilty of a misdemeanor.

§ 56-484.4. *Definitions.*

As used in this article, unless the context otherwise requires, the term:

"Department" means the Department ~~for the Deaf and Hard-of-Hearing~~ *of Rehabilitative and Disability Services.*

"Operation" means those functions reasonably and directly necessary for the provision of telecommunications relay service, including contract procurement and administration, and public education and information regarding such service.

"Telecommunications relay service" means a facility whereby a person who has a hearing or speech disability using a text telephone and a person using a conventional telephone device can communicate with each other via telephone.

"Telephone company" means a certificated local exchange telephone company, or any county, city or town that has obtained a certificate pursuant to § 56-265.4:4, which owns, manages, or controls any plant or equipment or any part of a plant or equipment within the Commonwealth for the conveyance of telephone messages, either directly or indirectly.

"Voice carry over" means technology that will enable a deaf or hard-of-hearing person with good speech to use his voice, instead of the text telephone, to communicate back to the hearing person.

§ 58.1-439.11. *Employees with disabilities tax credit.*

A. As used in this section, unless the context clearly requires otherwise:

"Qualified employee" means an otherwise qualified person with a disability who has completed or is completing rehabilitative services from the Department of Rehabilitative ~~and Disability Services~~, ~~the Department for the Blind and Vision Impaired~~ or the U.S. Department of Veterans Affairs. An otherwise qualified person with a disability (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"Wages" means wages, within the meaning of § 51 (c) (1), (2) and (3) of the Internal Revenue Code without regard to § 51 (c) (4) of the Internal Revenue Code, that are paid by an employer to an employee for services performed in the employer's trade or business.

B. Except as provided in subsection D ~~of this section~~, an employer may claim a tax credit in the amounts determined under subsection C ~~of this section~~ for the wages of a qualified employee that are paid in the taxable year for which the employer claims the credit. The same tax credit shall not be

2149 applied more than once against different taxes by the same taxpayer.

2150 C. For taxable years beginning on and after January 1, 1999, but before December 31, 2002, an
2151 employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6
2152 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article
2153 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title in an
2154 amount equal to ~~twenty~~ 20 percent of the first \$6,000 of wages paid annually to each qualified
2155 employee during the first two taxable years of such employee's employment.

2156 D. An employer shall not claim the credit allowed under this section for a qualified employee who is
2157 on strike or for whom the employer simultaneously receives federal or state employment training
2158 benefits. Furthermore, the credit allowed under this section shall be based on actual wages paid during
2159 the applicable taxable year.

2160 E. For purposes of this section, the amount of any credit attributable to a partnership, electing small
2161 business corporation (S corporation), or limited liability company shall be allocated to the individual
2162 partners, shareholders, or members, respectively, in proportion to their ownership or interest in such
2163 business entities.

2164 F. An employer shall be entitled to the credit granted under this section only for those qualified
2165 employees who have been certified as otherwise qualified persons with disabilities to the Department of
2166 Taxation by the Department of Rehabilitative *and Disability* Services, ~~the Department for the Blind and~~
2167 ~~Vision Impaired~~ or the U.S. Department of Veterans Affairs. The Tax Commissioner shall promulgate
2168 regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), establishing
2169 procedures for claiming the credit provided by this section. The Department of Rehabilitative *and*
2170 *Disability* Services, ~~the Department for the Visually Handicapped~~ or the U.S. Department of Veterans
2171 Affairs shall review requests for certification submitted by employers and shall advise the Tax
2172 Commissioner whether an employee qualifies.

2173 G. Any credit not usable for the taxable year may be carried over for the next three taxable years.
2174 The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable
2175 year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the
2176 tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section
2177 of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered
2178 to have first utilized any credit allowed which does not have a carryover provision, and then any credit
2179 which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed
2180 pursuant to this section.

2181 H. No employer shall be eligible to claim a credit under this section if the employer is claiming a
2182 tax credit for the same employee under § 58.1-439.

2183 I. The Tax Commissioner shall report annually to the Chairmen of the House Finance and Senate
2184 Finance Committees on the status and implementation of the credit established by this section, including
2185 certifications for otherwise qualified persons with disabilities.

2186 § 58.1-609.1. Governmental and commodities exemptions.

2187 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606
2188 shall not apply to the following:

2189 1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title.
2190 Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this
2191 chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2192 2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

2193 3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

2194 4. Tangible personal property for use or consumption by the Commonwealth, any political
2195 subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and
2196 leases to privately owned financial and other privately owned corporations chartered by the United
2197 States. Further, this exemption shall not apply to tangible personal property which is acquired by the
2198 Commonwealth or any of its political subdivisions and then transferred to private businesses for their
2199 use in a facility or real property improvement to be used by a private entity or for nongovernmental
2200 purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced
2201 Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the
2202 third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

2203 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

2204 6. Motor fuels and alternative fuels for use in a commercial watercraft upon which a fuel tax is
2205 refunded pursuant to § 58.1-2259.

2206 7. Sales by a government agency of the official flags of the United States, the Commonwealth of
2207 Virginia, or of any county, city or town.

2208 8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

2209 9. Watercraft as defined in § 58.1-1401.

2210 10. Tangible personal property used in and about a marine terminal under the supervision of the

Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the ~~Virginia Department for the Blind and Vision Impaired~~ *of Rehabilitative and Disability Services* or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, ~~fifty dollars~~ \$50 for any locality with a population of 25,000 but no more than 50,000 and ~~thirty dollars~~ \$30 for any locality with a population smaller than 25,000. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C of this section and (ii) subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed ~~fifty dollars~~ \$50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

B. Any county, city or town by ordinance may exempt in whole or in part from the license tax (i) the design, development or other creation of computer software for lease, sale or license and (ii) private businesses and industries entering into agreements for the establishment, installation, renovation, remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned by the business or industry and leased to the school board at no costs pursuant to § 22.1-26.1.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;

5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713;

6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town. This subdivision shall not be construed as prohibiting any county, city or town from imposing a local license tax on a peddler at wholesale pursuant to § 58.1-3718;

7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel

2272 trailer parks, lodging houses, rooming houses and boardinghouses; however, any county, city or town
2273 imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the
2274 provisions of this subdivision;

2275 8. [Repealed.]

2276 9. On or measured by receipts for management, accounting, or administrative services provided on a
2277 group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural
2278 cooperative association under the provisions of Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1,
2279 or a member or subsidiary or affiliated association thereof, to other members of the same group. This
2280 exemption shall not exempt any such corporation from such license or other tax measured by receipts
2281 from outside the group;

2282 10. On or measured by receipts or purchases by an entity which is a member of an affiliated group
2283 of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated
2284 entities from such license or other tax measured by receipts or purchases from outside the affiliated
2285 group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax
2286 on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the
2287 fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity.
2288 Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in
2289 this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the
2290 affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are
2291 manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

2292 11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title
2293 or on any agent of such company;

2294 12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this
2295 title;

2296 13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for
2297 which the taxicab driver operates;

2298 14. On any blind person operating a vending stand or other business enterprise under the jurisdiction
2299 of the Department for the Blind and Vision Impaired of Rehabilitative and Disability Services, or a
2300 nominee of the Department, as set forth in § 51.5-98;

2301 15. [Expired.]

2302 16. [Repealed.]

2303 17. On an accredited religious practitioner in the practice of the religious tenets of any church or
2304 religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely
2305 in praying for others upon accreditation by such church or religious denomination;

2306 18. (a) On or measured by receipts of a charitable nonprofit organization except to the extent the
2307 organization has receipts from an unrelated trade or business the income of which is taxable under
2308 Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "charitable nonprofit
2309 organization" means an organization which is described in Internal Revenue Code § 501 (c) (3) and to
2310 which contributions are deductible by the contributor under Internal Revenue Code § 170, except that
2311 educational institutions shall be limited to schools, colleges and other similar institutions of learning.

2312 (b) On or measured by gifts, contributions, and membership dues of a nonprofit organization.
2313 Activities conducted for consideration which are similar to activities conducted for consideration by
2314 for-profit businesses shall be presumed to be activities that are part of a business subject to licensure.
2315 For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal
2316 income tax under Internal Revenue Code § 501 other than charitable nonprofit organizations;

2317 19. On any venture capital fund or other investment fund, except commissions and fees of such
2318 funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality
2319 in which the real estate is located provided the locality is otherwise authorized to tax such businesses
2320 and rental of real estate; or

2321 20. On total assessments paid by condominium unit owners for common expenses. "Common
2322 expenses" and "unit owner" have the same meanings as in § 55-79.41.

2323 § 58.1-3840. Certain excise taxes permitted.

2324 A. The provisions of Chapter 6 (§ 58.1-600 et seq.) of this title to the contrary notwithstanding, any
2325 city or town having general taxing powers established by charter pursuant to or consistent with the
2326 provisions of § 15.2-1104 may impose excise taxes on cigarettes, admissions, transient room rentals,
2327 meals, and travel campgrounds, provided that no such taxes may be imposed on food and beverages sold
2328 through vending machines or on any tangible personal property purchased with food coupons issued by
2329 the United States Department of Agriculture under the Food Stamp Program or drafts issued through the
2330 Virginia Special Supplemental Food Program for Women, Infants, and Children. In addition, as set forth
2331 in § 51.5-98, no blind person operating a vending stand or other business enterprise under the
2332 jurisdiction of the Department for the Blind and Vision Impaired of Rehabilitative and Disability
2333 Services and located on property acquired and used by the United States for any military or naval

purpose shall be required to collect and remit meals taxes.

B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums and amphitheatres.

2. That Chapters 2 (§§ 51.5-3 through 51.5-7), 3 (§§ 51.5-8 through 51.5-12), 4 (§§ 51.5-13 through 51.5-14.1), 5 (§§ 51.5-15 through 51.5-22), and 6 (§§ 51.5-23 through 51.5-30), Article 3 of Chapter 12 (§§ 51.5-64 through 51.5-77), and Chapter 13 (§§ 51.5-106 through 51.5-114) of Title 51.5 of the Code of Virginia are repealed.

3. That the regulations of the Department of Rehabilitative Services and Departments for the Blind and Vision Impaired and the Deaf and Hard-of-Hearing in effect on the effective date of this act shall continue in effect until such time as amended by the Department of Rehabilitative and Disability Services.

4. That the Governor may transfer an appropriation or any portion thereof or any employees within an agency established, abolished, or altered by the provisions of this act, or from one agency to another, to support the changes in organization or responsibility resulting from or required by the provisions of this act.

5. That, as of the effective date of this act, the Department of Rehabilitative and Disability Services shall be deemed the successor in interest to the Department of Rehabilitative Services and Departments for the Blind and Vision Impaired and the Deaf and Hard-of-Hearing to the extent that this act transfers powers and duties. All rights, title and interest in and to any real or tangible personal property vested in the Department of Rehabilitative Services and Departments for the Blind and Vision Impaired and the Deaf and Hard-of-Hearing to the extent this act transfers powers and duties as of the effective date of this act shall be transferred to and taken as standing in the name of the Department of Rehabilitative and Disability Services.

6. That the Department of Rehabilitative Services, in collaboration with the Departments for the Blind and Vision Impaired and the Deaf and Hard-of-Hearing, shall submit a report on the implementation of this act to the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services by November 15, 2005.

7. That the provisions of this act shall become effective July 1, 2006.