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HOUSE BILL NO. 415

Offered January 11, 2006

Prefiled January 6, 2006

A BILL to amend and reenact §§ 9.1-914 and 32.1-127 of the Code of Virginia, relating to notification of sexual offenders.

Patrons—Griffith, Albo, Athey, Byron, Callahan, Cosgrove, Gilbert, Kilgore, Landes, Lingamfelter, Marshall, D.W., May, McQuigg, Nixon, O'Bannon, Rapp, Rust, Saxman, Sherwood, Suit, Welch and Wright

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 9.1-914 and 32.1-127 of the Code of Virginia are amended and reenacted as follows:**

§ 9.1-914. Automatic notification of registration to certain entities.

Any school, day-care service and child-minding service, and any state-regulated or state-licensed child day center, child day program, children's residential facility, family day home, ~~or~~ foster home as defined in § 63.2-100, *nursing home, or certified nursing facility as defined in § 32.1-123* may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration or reregistration of any sex offender. Entities that request and are entitled to this notification, and that do not have the capability of receiving such electronic notice, may register with the State Police to receive written notification of sex offender registration or reregistration.

Within three business days of receipt by the State Police of registration or reregistration, the State Police shall electronically or in writing notify an entity that has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The State Police shall establish reasonable guidelines governing the automatic dissemination of Registry information, which may include the payment of a fee, whether a one-time fee or a regular assessment, to maintain the electronic access. The fee, if any, shall defray the costs of establishing and maintaining the electronic notification system and notice by mail.

For the purposes of this section, "day-care service" means provision of supplementary care and protection during a part of the day for the minor child of another; "child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another; and "school" means any public, religious or private educational institution, including any preschool, elementary school, secondary school, post-secondary school, trade or professional institution, or institution of higher education.

§ 32.1-127. Regulations.

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.) of this chapter.

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to assure the environmental protection and the life safety of its patients and employees and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; and (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence;

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare & Medicaid Services (CMS), particularly 42

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57 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization
58 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement
59 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of
60 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for
61 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in
62 Virginia certified by the Eye Bank Association of America or the American Association of Tissue
63 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least
64 one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage,
65 and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential
66 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital
67 collaborates with the designated organ procurement organization to inform the family of each potential
68 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making
69 contact with the family shall have completed a course in the methodology for approaching potential
70 donor families and requesting organ or tissue donation that (i) is offered or approved by the organ
71 procurement organization and designed in conjunction with the tissue and eye bank community and (ii)
72 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the
73 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
74 organization in educating the staff responsible for contacting the organ procurement organization's
75 personnel on donation issues, the proper review of death records to improve identification of potential
76 donors, and the proper procedures for maintaining potential donors while necessary testing and
77 placement of potential donated organs, tissues, and eyes takes place. This process shall be followed,
78 without exception, unless the family of the relevant decedent or patient has expressed opposition to
79 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition,
80 and no donor card or other relevant document, such as an advance directive, can be found;

81 5. Shall require that each hospital that provides obstetrical services establish a protocol for admission
82 or transfer of any pregnant woman who presents herself while in labor;

83 6. Shall also require that each licensed hospital develop and implement a protocol requiring written
84 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall
85 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother
86 and the infant be made and documented. Appropriate referrals may include, but need not be limited to,
87 treatment services, comprehensive early intervention services for infants and toddlers with disabilities
88 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C.
89 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to
90 the extent possible, the father of the infant and any members of the patient's extended family who may
91 participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant
92 to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to
93 federal law restrictions, the community services board of the jurisdiction in which the woman resides to
94 appoint a discharge plan manager. The community services board shall implement and manage the
95 discharge plan;

96 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant
97 for admission the home's or facility's admissions policies, including any preferences given;

98 8. Shall require that each licensed hospital establish a protocol relating to the rights and
99 responsibilities of patients which shall include a process reasonably designed to inform patients of such
100 rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to
101 patients on admission, shall be based on Joint Commission on Accreditation of Healthcare Organizations'
102 standards;

103 9. Shall establish standards and maintain a process for designation of levels or categories of care in
104 neonatal services according to an applicable national or state-developed evaluation system. Such
105 standards may be differentiated for various levels or categories of care and may include, but need not be
106 limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

107 10. Shall require that each nursing home and certified nursing facility train all employees who are
108 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting
109 procedures and the consequences for failing to make a required report;

110 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or
111 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication
112 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute
113 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable
114 period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and
115 regulations or hospital policies and procedures, by the person giving the order, or, when such person is
116 not available within the period of time specified, co-signed by another physician or other person
117 authorized to give the order; and

118 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer

of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention; and

13. Shall require nursing homes and certified nursing facilities to notify residents, residents' families, residents' legal representatives, and the public of the presence of a person convicted of a sexual offense for which registration is required pursuant to § 9.1-902 residing in the nursing home or certified nursing facility.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.