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SENATE BILL NO. 1433

Offered January 21, 2011

A BILL to amend and reenact §§ 32.1-127, 32.1-138, 63.2-1805, and 63.2-1808 of the Code of Virginia, relating to nursing homes; notice of liability insurance coverage.

Patron—Stanley

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-127, 32.1-138, 63.2-1805, and 63.2-1808 of the Code of Virginia are amended and reenacted as follows:

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

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission

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59 or transfer of any pregnant woman who presents herself while in labor;

60 6. Shall also require that each licensed hospital develop and implement a protocol requiring written
61 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall
62 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother
63 and the infant be made and documented. Appropriate referrals may include, but need not be limited to,
64 treatment services, comprehensive early intervention services for infants and toddlers with disabilities
65 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C.
66 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to
67 the extent possible, the father of the infant and any members of the patient's extended family who may
68 participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant
69 to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to
70 federal law restrictions, the community services board of the jurisdiction in which the woman resides to
71 appoint a discharge plan manager. The community services board shall implement and manage the
72 discharge plan;

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

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

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

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

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

95 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer
96 of the vaccination, that each certified nursing facility and nursing home provide or arrange for the
97 administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal
98 vaccination, in accordance with the most recent recommendations of the Advisory Committee on
99 Immunization Practices of the Centers for Disease Control and Prevention;

100 13. Shall require that each nursing home and certified nursing facility register with the Department of
101 State Police to receive notice of the registration or reregistration of any sex offender within the same or
102 a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

103 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,
104 whether a potential patient is a registered sex offender, if the home or facility anticipates the potential
105 patient will have a length of stay greater than three days or in fact stays longer than three days; ~~and~~

106 15. Shall require that each licensed hospital include in its visitation policy a provision allowing each
107 adult patient to receive visits from any individual from whom the patient desires to receive visits,
108 subject to other restrictions contained in the visitation policy including, but not limited to, those related
109 to the patient's medical condition and the number of visitors permitted in the patient's room
110 simultaneously; *and*

111 16. *Shall require that each nursing home and certified nursing facility report annually and within 10*
112 *days of any change in coverage, the amounts and sources of all professional liability insurance*
113 *coverage and general liability insurance coverage that may be available to pay claims of patients of the*
114 *nursing home or certified nursing facility.*

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

117 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for
118 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot
119 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to
120 be contaminated with an infectious agent, those hemophiliacs who have received units of this

121 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot
122 which is known to be contaminated shall notify the recipient's attending physician and request that he
123 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail,
124 return receipt requested, each recipient who received treatment from a known contaminated lot at the
125 individual's last known address.

126 § 32.1-138. Enumeration; posting of policies; staff training; responsibilities devolving on guardians,
127 etc.; exceptions; certification of compliance.

128 A. The governing body of a nursing home facility required to be licensed under the provisions of
129 Article 1 (§ 32.1-123 et seq.) of this chapter, through the administrator of such facility, shall cause to be
130 promulgated policies and procedures to ensure that, at the minimum, each patient admitted to such
131 facility:

132 1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of
133 admission and during his stay, of his rights and of all rules and regulations governing patient conduct
134 and responsibilities;

135 2. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of
136 admission and during his stay, of services available in the facility, the terms of such services, and
137 related charges, including any charges for services not covered under Titles XVIII or XIX of the United
138 States Social Security Act or not covered by the facility's basic per diem rate;

139 3. Is fully informed in summary form of the findings concerning the facility in federal Centers for
140 Medicare & Medicaid Services surveys and investigations, if any;

141 4. Is fully informed by a physician, physician assistant, or nurse practitioner of his medical condition
142 unless medically contraindicated as documented by a physician, physician assistant, or nurse practitioner
143 in his medical record and is afforded the opportunity to participate in the planning of his medical
144 treatment and to refuse to participate in experimental research;

145 5. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients,
146 or for nonpayment for his stay except as prohibited by Titles XVIII or XIX of the United States Social
147 Security Act, and is given reasonable advance notice as provided in § 32.1-138.1 to ensure orderly
148 transfer or discharge, and such actions are documented in his medical record;

149 6. Is encouraged and assisted, throughout the period of his stay, to exercise his rights as a patient
150 and as a citizen and to this end may voice grievances and recommend changes in policies and services
151 to facility staff and to outside representatives of his choice, free from restraint, interference, coercion,
152 discrimination, or reprisal;

153 7. May manage his personal financial affairs, or may have access to records of financial transactions
154 made on his behalf at least once a month and is given at least a quarterly accounting of financial
155 transactions made on his behalf should the facility accept his written delegation of this responsibility to
156 the facility for any period of time in conformance with state law;

157 8. Is free from mental and physical abuse and free from chemical and, except in emergencies,
158 physical restraints except as authorized in writing by a physician for a specified and limited period of
159 time or when necessary to protect the patient from injury to himself or to others;

160 9. Is assured confidential treatment of his personal and medical records and may approve or refuse
161 their release to any individual outside the facility, except in case of his transfer to another health care
162 institution or as required by law or third-party payment contract;

163 10. Is treated with consideration, respect, and full recognition of his dignity and individuality,
164 including privacy in treatment and in care for his personal needs;

165 11. Is not required to perform services for the facility that are not included for therapeutic purposes
166 in his plan of care;

167 12. May associate and communicate privately with persons of his choice and send and receive his
168 personal mail unopened, unless medically contraindicated as documented by his physician in his medical
169 record;

170 13. May meet with and participate in activities of social, religious and community groups at his
171 discretion, unless medically contraindicated as documented by his physician, physician assistant, or nurse
172 practitioner in his medical record;

173 14. May retain and use his personal clothing and possessions as space permits unless to do so would
174 infringe upon rights of other patients and unless medically contraindicated as documented by his
175 physician, physician assistant, or nurse practitioner in his medical record;

176 15. If married, is assured privacy for visits by his or her spouse and if both are inpatients in the
177 facility, is permitted to share a room with such spouse unless medically contraindicated as documented
178 by the attending physician, physician assistant, or nurse practitioner in the medical record; and

179 16. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal
180 representative, prior to or at the time of admission and during his stay, that he should exercise whatever
181 due diligence he deems necessary with respect to information on any sexual offenders registered

182 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including how to obtain such information. Upon
 183 request, the nursing home facility shall assist the resident, prospective resident, or the legal
 184 representative of the resident or prospective resident in accessing this information and provide the
 185 resident, prospective resident, or the legal representative of the resident or prospective resident with
 186 printed copies of the requested information; and

187 *17. Is advised in writing prior to admission and at least annually thereafter, and within 10 days of*
 188 *any change in the amount of coverage, of the amounts and all sources of professional liability insurance*
 189 *coverage and general liability insurance coverage that may be available to pay claims of the patient.*

190 B. All established policies and procedures regarding the rights and responsibilities of patients shall be
 191 printed in at least 12-point type and posted conspicuously in a public place in all nursing home facilities
 192 required to be licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of this chapter. These
 193 policies and procedures shall include the name and telephone number of the complaint coordinator in the
 194 Division of Licensure and Certification of the Virginia Department of Health, the Adult Protective
 195 Services' toll-free telephone number, as well as the toll-free telephone number for the Virginia
 196 Long-Term Care Ombudsman Program and any substate ombudsman program serving the area. Copies
 197 of such policies and procedures shall be given to patients upon admittance to the facility and made
 198 available to patients currently in residence, to any guardians, responsible party as defined in regulation,
 199 next of kin, or sponsoring agency or agencies, and to the public.

200 C. The provisions of this section shall not be construed to restrict any right that any patient in
 201 residence has under law.

202 D. Each facility shall provide appropriate staff training to implement each patient's rights included in
 203 subsection A hereof.

204 E. All rights and responsibilities specified in subsection A hereof and § 32.1-138.1 as they pertain to
 205 (i) a patient adjudicated incapacitated in accordance with state law, (ii) a patient who is found, by his
 206 physician, to be medically incapable of understanding these rights, or (iii) a patient who is unable to
 207 communicate with others shall devolve to such patient's guardian, responsible party as defined in
 208 regulation, next of kin, sponsoring agency or agencies, or representative payee, except when the facility
 209 itself is representative payee, selected pursuant to section 205(j) of Title II of the United States Social
 210 Security Act. The persons to whom such rights and responsibilities have devolved shall be deemed to
 211 have legal authority to act on the patient's behalf with respect to the matters specified in this section.

212 F. Nothing in this section shall be construed to prescribe, regulate, or control the remedial care and
 213 treatment or nursing service provided to any patient in a nursing institution to which the provisions of
 214 § 32.1-128 are applicable.

215 G. It shall be the responsibility of the Commissioner to insure that the provisions of this section and
 216 the provisions of § 32.1-138.1 are observed and implemented by nursing home facilities. Each nursing
 217 home facility to which this section and § 32.1-138.1 are applicable shall certify to the Commissioner that
 218 it is in compliance with the provisions of this section and the provisions of § 32.1-138.1 as a condition
 219 to the issuance or renewal of the license required by Article 1 (§ 32.1-123 et seq.) of this chapter.

220 § 63.2-1805. Admissions and discharge.

221 A. The Board shall adopt regulations:

222 1. Governing admissions to assisted living facilities;

223 2. Requiring that each assisted living facility prepare and provide a statement, in a format prescribed
 224 by the Department, to any prospective resident and his legal representative, if any, prior to admission
 225 and upon request, that discloses information, fully and accurately in plain language, about the (i)
 226 services; (ii) fees, including clear information about what services are included in the base fee and any
 227 fees for additional services; (iii) admission, transfer, and discharge criteria, including criteria for transfer
 228 to another level of care within the same facility or complex; (iv) general number and qualifications of
 229 staff on each shift; (v) range, frequency, and number of activities provided for residents; and (vi)
 230 ownership structure of the facility; and (vii) *the liability insurance limits applicable to claims against*
 231 *the ownership or operation of the facility by a resident;*

232 3. Establishing a process to ensure that each resident admitted or retained in an assisted living
 233 facility receives appropriate services and periodic independent reassessments and reassessments when
 234 there is a significant change in the resident's condition in order to determine whether a resident's needs
 235 can continue to be met by the facility and whether continued placement in the facility is in the best
 236 interests of the resident;

237 4. Governing appropriate discharge planning for residents whose care needs can no longer be met by
 238 the facility;

239 5. Addressing the involuntary discharge of residents;

240 6. Requiring that residents are informed of their rights pursuant to § 63.2-1808 at the time of
 241 admission;

242 7. Establishing a process to ensure that any resident temporarily detained in a facility pursuant to
 243 §§ 37.2-809 through 37.2-813 is accepted back in the assisted living facility if the resident is not

244 involuntarily admitted pursuant to §§ 37.2-814 through 37.2-819; and
245 8. Requiring that each assisted living facility train all employees who are mandated to report adult
246 abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the
247 consequences for failing to make a required report; and

248 9. *Requiring that each assisted living facility report annually and within 10 days of any change in*
249 *coverage, the liability insurance limits applicable to claims against the ownership or operation of the*
250 *facility by a resident.*

251 B. If there are observed behaviors or patterns of behavior indicative of mental illness, mental
252 retardation, substance abuse, or behavioral disorders, as documented in the uniform assessment
253 instrument completed pursuant to § 63.2-1804, the facility administrator or designated staff member shall
254 ensure that an evaluation of the individual is or has been conducted by a qualified professional as
255 defined in regulations. If the evaluation indicates a need for mental health, mental retardation, substance
256 abuse, or behavioral disorder services, the facility shall provide (i) a notification of the resident's need
257 for such services to the authorized contact person of record when available and (ii) a notification of the
258 resident's need for such services to the community services board or behavioral health authority
259 established pursuant to Title 37.2 that serves the city or county in which the facility is located, or other
260 appropriate licensed provider. The Department shall not take adverse action against a facility that has
261 demonstrated and documented a continual good faith effort to meet the requirements of this subsection.

262 C. The Department shall not order the removal of a resident from an assisted living facility if (i) the
263 resident, the resident's family, the resident's physician, and the facility consent to the resident's continued
264 stay in the assisted living facility and (ii) the facility is capable of providing, obtaining, or arranging for
265 the provision of necessary services for the resident, including, but not limited to, home health care
266 and/or hospice care.

267 D. Notwithstanding the provisions of subsection C above, assisted living facilities shall not admit or
268 retain an individual with any of the following conditions or care needs:

269 1. Ventilator dependency.
270 2. Dermal ulcers III and IV, except those stage III ulcers that are determined by an independent
271 physician to be healing.

272 3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy
273 managed by a health care professional licensed in Virginia or as permitted in subsection E.

274 4. Airborne infectious disease in a communicable state that requires isolation of the individual or
275 requires special precautions by the caretaker to prevent transmission of the disease, including diseases
276 such as tuberculosis and excluding infections such as the common cold.

277 5. Psychotropic medications without appropriate diagnosis and treatment plans.

278 6. Nasogastric tubes.

279 7. Gastric tubes except when the individual is capable of independently feeding himself and caring
280 for the tube or as permitted in subsection E.

281 8. An imminent physical threat or danger to self or others is presented by the individual.

282 9. Continuous licensed nursing care (seven-days-a-week, 24-hours-a-day) is required by the
283 individual.

284 10. Placement is no longer appropriate as certified by the individual's physician.

285 11. Maximum physical assistance is required by the individual as documented by the uniform
286 assessment instrument and the individual meets Medicaid nursing facility level-of-care criteria as defined
287 in the State Plan for Medical Assistance, unless the individual's independent physician determines
288 otherwise. Maximum physical assistance means that an individual has a rating of total dependence in
289 four or more of the seven activities of daily living as documented on the uniform assessment instrument.

290 12. The assisted living facility determines that it cannot meet the individual's physical or mental
291 health care needs.

292 13. Other medical and functional care needs that the Board determines cannot be met properly in an
293 assisted living facility.

294 E. Except for auxiliary grant recipients, at the request of the resident in an assisted living facility and
295 when his independent physician determines that it is appropriate, (i) care for the conditions or care needs
296 defined in subdivisions D 3 and D 7 may be provided to the resident by a licensed physician, a licensed
297 nurse or a nurse holding a multistate licensure privilege under a physician's treatment plan, or a home
298 care organization licensed in Virginia or (ii) care for the conditions or care needs defined in subdivision
299 D 7 may also be provided to the resident by facility staff if the care is delivered in accordance with the
300 regulations of the Board of Nursing for delegation by a registered nurse, 18 VAC 90-20-420 et seq.

301 The Board shall adopt regulations to implement the provisions of this subsection.

302 F. In adopting regulations pursuant to subsections A, B, C, D, and E the Board shall consult with the
303 Departments of Health and Behavioral Health and Developmental Services.

304 § 63.2-1808. Rights and responsibilities of residents of assisted living facilities; certification of

305 licensure.

306 A. Any resident of an assisted living facility has the rights and responsibilities enumerated in this
307 section. The operator or administrator of an assisted living facility shall establish written policies and
308 procedures to ensure that, at the minimum, each person who becomes a resident of the assisted living
309 facility:

310 1. Is fully informed, prior to or at the time of admission and during the resident's stay, of his rights
311 and of all rules and expectations governing the resident's conduct, responsibilities, and the terms of the
312 admission agreement; evidence of this shall be the resident's written acknowledgment of having been so
313 informed, which shall be filed in his record;

314 2. Is fully informed, prior to or at the time of admission and during the resident's stay, of services
315 available in the facility and of any related charges; this shall be reflected by the resident's signature on a
316 current resident's agreement retained in the resident's file;

317 3. Unless a committee or conservator has been appointed, is free to manage his personal finances and
318 funds regardless of source; is entitled to access to personal account statements reflecting financial
319 transactions made on his behalf by the facility; and is given at least a quarterly accounting of financial
320 transactions made on his behalf when a written delegation of responsibility to manage his financial
321 affairs is made to the facility for any period of time in conformance with state law;

322 4. Is afforded confidential treatment of his personal affairs and records and may approve or refuse
323 their release to any individual outside the facility except as otherwise provided in law and except in case
324 of his transfer to another care-giving facility;

325 5. Is transferred or discharged only when provided with a statement of reasons, or for nonpayment
326 for his stay, and is given reasonable advance notice; upon notice of discharge or upon giving reasonable
327 advance notice of his desire to move, shall be afforded reasonable assistance to ensure an orderly
328 transfer or discharge; such actions shall be documented in his record;

329 6. In the event a medical condition should arise while he is residing in the facility, is afforded the
330 opportunity to participate in the planning of his program of care and medical treatment at the facility
331 and the right to refuse treatment;

332 7. Is not required to perform services for the facility except as voluntarily contracted pursuant to a
333 voluntary agreement for services that states the terms of consideration or remuneration and is
334 documented in writing and retained in his record;

335 8. Is free to select health care services from reasonably available resources;

336 9. Is free to refuse to participate in human subject experimentation or to be party to research in
337 which his identity may be ascertained;

338 10. Is free from mental, emotional, physical, sexual, and economic abuse or exploitation; is free from
339 forced isolation, threats or other degrading or demeaning acts against him; and his known needs are not
340 neglected or ignored by personnel of the facility;

341 11. Is treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity;

342 12. Is encouraged, and informed of appropriate means as necessary, throughout the period of stay to
343 exercise his rights as a resident and as a citizen; to this end, he is free to voice grievances and
344 recommend changes in policies and services, free of coercion, discrimination, threats or reprisal;

345 13. Is permitted to retain and use his personal clothing and possessions as space permits unless to do
346 so would infringe upon rights of other residents;

347 14. Is encouraged to function at his highest mental, emotional, physical and social potential;

348 15. Is free of physical or mechanical restraint except in the following situations and with appropriate
349 safeguards:

350 a. As necessary for the facility to respond to unmanageable behavior in an emergency situation,
351 which threatens the immediate safety of the resident or others;

352 b. As medically necessary, as authorized in writing by a physician, to provide physical support to a
353 weakened resident;

354 16. Is free of prescription drugs except where medically necessary, specifically prescribed, and
355 supervised by the attending physician, physician assistant, or nurse practitioner;

356 17. Is accorded respect for ordinary privacy in every aspect of daily living, including but not limited
357 to the following:

358 a. In the care of his personal needs except as assistance may be needed;

359 b. In any medical examination or health-related consultations the resident may have at the facility;

360 c. In communications, in writing or by telephone;

361 d. During visitations with other persons;

362 e. In the resident's room or portion thereof; residents shall be permitted to have guests or other
363 residents in their rooms unless to do so would infringe upon the rights of other residents; staff may not
364 enter a resident's room without making their presence known except in an emergency or in accordance
365 with safety oversight requirements included in regulations of the Board;

366 f. In visits with his spouse; if both are residents of the facility they are permitted but not required to

367 share a room unless otherwise provided in the residents' agreements;
368 18. Is permitted to meet with and participate in activities of social, religious, and community groups
369 at his discretion unless medically contraindicated as documented by his physician, physician assistant, or
370 nurse practitioner in his medical record; and

371 19. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal
372 representative, prior to or at the time of admission and during his stay, that he should exercise whatever
373 due diligence he deems necessary with respect to information on any sex offenders registered pursuant
374 to Chapter 9 (§ 9.1-900 et. seq.) of Title 9.1, including how to obtain such information. Upon request,
375 the assisted living facility shall assist the resident, prospective resident, or the legal representative of the
376 resident or prospective resident in accessing this information and provide the resident, prospective
377 resident, or the legal representative of the resident or prospective resident with printed copies of the
378 requested information-; and

379 20. *Is fully informed in writing prior to admission and at least annually thereafter, and within 10*
380 *days of any change in the amount of coverage, of the liability insurance limits applicable to claims*
381 *against the ownership or operation of the facility by a resident.*

382 B. If the resident is unable to fully understand and exercise the rights and responsibilities contained
383 in this section, the facility shall require that a responsible individual, of the resident's choice when
384 possible, designated in writing in the resident's record, be made aware of each item in this section and
385 the decisions that affect the resident or relate to specific items in this section; a resident shall be
386 assumed capable of understanding and exercising these rights unless a physician determines otherwise
387 and documents the reasons for such determination in the resident's record.

388 C. The rights and responsibilities of residents shall be printed in at least 12-point type and posted
389 conspicuously in a public place in all assisted living facilities. The facility shall also post the name and
390 telephone number of the regional licensing supervisor of the Department, the Adult Protective Services'
391 toll-free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care
392 Ombudsman Program, any sub-state ombudsman program serving the area, and the toll-free number of
393 the Virginia Office for Protection and Advocacy.

394 D. The facility shall make its policies and procedures for implementing this section available and
395 accessible to residents, relatives, agencies, and the general public.

396 E. The provisions of this section shall not be construed to restrict or abridge any right that any
397 resident has under law.

398 F. Each facility shall provide appropriate staff training to implement each resident's rights included in
399 this section.

400 G. The Board shall adopt regulations as necessary to carry out the full intent of this section.

401 H. It shall be the responsibility of the Commissioner to ensure that the provisions of this section are
402 observed and implemented by assisted living facilities as a condition to the issuance, renewal, or
403 continuation of the license required by this article.