

23102178D

**SENATE BILL NO. 975**

Senate Amendments in [ ] - January 23, 2023

Prefiled January 6, 2023

A *BILL to amend and reenact §§ 2.2-2818, 8.01-401.2, 8.01-581.1, 13.1-543, 13.1-1102, 16.1-336, 18.2-72, 18.2-76, 22.1-178, 22.1-270, 22.1-271.2, 22.1-271.4, 22.1-271.7, 22.1-274, 22.1-274.2, 32.1-19, 32.1-23.2, 32.1-42.1, 32.1-46, 32.1-50, 32.1-60, 32.1-122.6:02, 32.1-134.2, 32.1-134.3, 32.1-134.4, 32.1-138, 32.1-162.15:2, as it shall become effective, 32.1-263, 32.1-282, 32.1-325, as it is currently effective and as it shall become effective, 37.2-815, 38.2-3407.11, 38.2-3408, 38.2-4221, 45.2-548, 45.2-1137, 46.2-208, 46.2-322, 46.2-731, 46.2-739, 46.2-1240, 46.2-1241, 53.1-22, 54.1-2400.01:1, 54.1-2400.9, 54.1-2701, 54.1-2729.2, 54.1-2900, 54.1-2901, 54.1-2904, 54.1-2910.5, as it shall become effective, 54.1-2927, 54.1-2957 through 54.1-2957.04, 54.1-2970.1, 54.1-2972, 54.1-2973.1, 54.1-2983.2, 54.1-2986.2, 54.1-3000, 54.1-3002, 54.1-3005, 54.1-3016.1, 54.1-3300, 54.1-3300.1, 54.1-3301, 54.1-3303, 54.1-3304.1, 54.1-3401, 54.1-3408, 54.1-3408.3, 54.1-3482, 54.1-3482.1, 54.1-3812, 58.1-439.22, 58.1-609.10, 59.1-297, 59.1-298, 59.1-310.4, 63.2-1808, 63.2-1808.1, 63.2-2203, 65.2-402.1, and 65.2-605 of the Code of Virginia, relating to certified nurse midwives, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners; designation as advanced practice registered nurses.*

Patrons Prior to Engrossment—Senators Peake and Boysko

Referred to Committee on Education and Health

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

1. That §§ 2.2-2818, 8.01-401.2, 8.01-581.1, 13.1-543, 13.1-1102, 16.1-336, 18.2-72, 18.2-76, 22.1-178, 22.1-270, 22.1-271.2, 22.1-271.4, 22.1-271.7, 22.1-274, 22.1-274.2, 32.1-19, 32.1-23.2, 32.1-42.1, 32.1-46, 32.1-50, 32.1-60, 32.1-122.6:02, 32.1-134.2, 32.1-134.3, 32.1-134.4, 32.1-138, 32.1-162.15:2, as it shall become effective, 32.1-263, 32.1-282, 32.1-325, as it is currently effective and as it shall become effective, 37.2-815, 38.2-3407.11, 38.2-3408, 38.2-4221, 45.2-548, 45.2-1137, 46.2-208, 46.2-322, 46.2-731, 46.2-739, 46.2-1240, 46.2-1241, 53.1-22, 54.1-2400.01:1, 54.1-2400.9, 54.1-2701, 54.1-2729.2, 54.1-2900, 54.1-2901, 54.1-2904, 54.1-2910.5, as it shall become effective, 54.1-2927, 54.1-2957 through 54.1-2957.04, 54.1-2970.1, 54.1-2972, 54.1-2973.1, 54.1-2983.2, 54.1-2986.2, 54.1-3000, 54.1-3002, 54.1-3005, 54.1-3016.1, 54.1-3300, 54.1-3300.1, 54.1-3301, 54.1-3303, 54.1-3304.1, 54.1-3401, 54.1-3408, 54.1-3408.3, 54.1-3482, 54.1-3482.1, 54.1-3812, 58.1-439.22, 58.1-609.10, 59.1-297, 59.1-298, 59.1-310.4, 63.2-1808, 63.2-1808.1, 63.2-2203, 65.2-402.1, and 65.2-605 of the Code of Virginia are amended and reenacted as follows:

**§ 2.2-2818. Health and related insurance for state employees.**

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

**B. The plan shall:**

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

ENGROSSED

SB975E

59 In order to be considered a screening mammogram for which coverage shall be made available under  
60 this section:

61 a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his  
62 licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance  
63 organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified  
64 radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery  
65 and certified by the American Board of Radiology or an equivalent examining body. A copy of the  
66 mammogram report shall be sent or delivered to the health care practitioner who ordered it;

67 b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia  
68 Department of Health in its radiation protection regulations; and

69 c. The mammography film shall be retained by the radiologic facility performing the examination in  
70 accordance with the American College of Radiology guidelines or state law.

71 2. Include coverage for postpartum services providing inpatient care and a home visit or visits that  
72 shall be in accordance with the medical criteria, outlined in the most current version of or an official  
73 update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the  
74 American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic  
75 Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be  
76 provided incorporating any changes in such Guidelines or Standards within six months of the publication  
77 of such Guidelines or Standards or any official amendment thereto.

78 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures  
79 for the resolution of such complaints and shall be published and disseminated to all covered state  
80 employees. The appeals process shall be compliant with federal rules and regulations governing  
81 nonfederal, self-insured governmental health plans. The appeals process shall include a separate  
82 expedited emergency appeals procedure that shall provide resolution within time frames established by  
83 federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall  
84 contract with one or more independent review organizations to review such decisions. Independent  
85 review organizations are entities that conduct independent external review of adverse benefit  
86 determinations. The Department shall adopt regulations to assure that the independent review  
87 organization conducting the reviews has adequate standards, credentials and experience for such review.  
88 The independent review organization shall examine the final denial of claims to determine whether the  
89 decision is objective, clinically valid, and compatible with established principles of health care. The  
90 decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to  
91 the material issues in the case and the basis for those findings, and (iii) be final and binding if  
92 consistent with law and policy.

93 Prior to assigning an appeal to an independent review organization, the Department shall verify that  
94 the independent review organization conducting the review of a denial of claims has no relationship or  
95 association with (i) the covered person or the covered person's authorized representative; (ii) the treating  
96 health care provider, or any of its employees or affiliates; (iii) the medical care facility at which the  
97 covered service would be provided, or any of its employees or affiliates; or (iv) the development or  
98 manufacture of the drug, device, procedure or other therapy that is the subject of the final denial of a  
99 claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a  
100 health plan, a trade association of health plans, or a professional association of health care providers.  
101 There shall be no liability on the part of and no cause of action shall arise against any officer or  
102 employee of an independent review organization for any actions taken or not taken or statements made  
103 by such officer or employee in good faith in the performance of his powers and duties.

104 4. Include coverage for early intervention services. For purposes of this section, "early intervention  
105 services" means medically necessary speech and language therapy, occupational therapy, physical therapy  
106 and assistive technology services and devices for dependents from birth to age three who are certified by  
107 the Department of Behavioral Health and Developmental Services as eligible for services under Part H  
108 of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early  
109 intervention services for the population certified by the Department of Behavioral Health and  
110 Developmental Services shall mean those services designed to help an individual attain or retain the  
111 capability to function age-appropriately within his environment, and shall include services that enhance  
112 functional ability without effecting a cure.

113 For persons previously covered under the plan, there shall be no denial of coverage due to the  
114 existence of a preexisting condition. The cost of early intervention services shall not be applied to any  
115 contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the  
116 insured during the insured's lifetime.

117 5. Include coverage for prescription drugs and devices approved by the United States Food and Drug  
118 Administration for use as contraceptives.

119 6. Not deny coverage for any drug approved by the United States Food and Drug Administration for  
120 use in the treatment of cancer on the basis that the drug has not been approved by the United States

Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

182 Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to  
183 continue rendering health services to any covered employee who has entered the second trimester of  
184 pregnancy at the time of the provider's termination of participation, except when a provider is terminated  
185 for cause. Such treatment shall, at the covered employee's option, continue through the provision of  
186 postpartum care directly related to the delivery.

187 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue  
188 rendering health services to any covered employee who is determined to be terminally ill (as defined  
189 under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of  
190 participation, except when a provider is terminated for cause. Such treatment shall, at the covered  
191 employee's option, continue for the remainder of the employee's life for care directly related to the  
192 treatment of the terminal illness.

193 A provider who continues to render health care services pursuant to this subdivision shall be  
194 reimbursed in accordance with the carrier's agreement with such provider existing immediately before  
195 the provider's termination of participation.

196 15. Include coverage for patient costs incurred during participation in clinical trials for treatment  
197 studies on cancer, including ovarian cancer trials.

198 The reimbursement for patient costs incurred during participation in clinical trials for treatment  
199 studies on cancer shall be determined in the same manner as reimbursement is determined for other  
200 medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles,  
201 copayments and coinsurance factors that are no less favorable than for physical illness generally.

202 For purposes of this subdivision:

203 "Cooperative group" means a formal network of facilities that collaborate on research projects and  
204 have an established NIH-approved peer review program operating within the group. "Cooperative group"  
205 includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer  
206 Institute Community Clinical Oncology Program.

207 "FDA" means the Federal Food and Drug Administration.

208 "Multiple project assurance contract" means a contract between an institution and the federal  
209 Department of Health and Human Services that defines the relationship of the institution to the federal  
210 Department of Health and Human Services and sets out the responsibilities of the institution and the  
211 procedures that will be used by the institution to protect human subjects.

212 "NCI" means the National Cancer Institute.

213 "NIH" means the National Institutes of Health.

214 "Patient" means a person covered under the plan established pursuant to this section.

215 "Patient cost" means the cost of a medically necessary health care service that is incurred as a result  
216 of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not  
217 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the  
218 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research  
219 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

220 Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be  
221 provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such  
222 treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a  
223 Phase I clinical trial.

224 The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

- 225 a. The National Cancer Institute;
- 226 b. An NCI cooperative group or an NCI center;
- 227 c. The FDA in the form of an investigational new drug application;
- 228 d. The federal Department of Veterans Affairs; or
- 229 e. An institutional review board of an institution in the Commonwealth that has a multiple project  
230 assurance contract approved by the Office of Protection from Research Risks of the NCI.

231 The facility and personnel providing the treatment shall be capable of doing so by virtue of their  
232 experience, training, and expertise.

233 Coverage under this subdivision shall apply only if:

234 (1) There is no clearly superior, noninvestigational treatment alternative;

235 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will  
236 be at least as effective as the noninvestigational alternative; and

237 (3) The patient and the physician or health care provider who provides services to the patient under  
238 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to  
239 procedures established by the plan.

240 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a  
241 covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered  
242 employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized  
243 guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours

referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up audiological examinations as recommended by a physician, a physician assistant, an advanced practice registered nurse practitioner, or an audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of

the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means:

1. American Hospital Formulary Service — Drug Information;
2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
3. Elsevier Gold Standard's Clinical Pharmacology.

"State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05.

E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Human Resource Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each planning district shall be a high deductible health plan that would qualify for a health savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan.

This subsection shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. Any self-insured group health insurance plan established by the Department of Human Resource Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

Any plan established in accordance with this section shall be authorized to provide for the selection of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

I. Any plan established in accordance with this section requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established in accordance with this section shall provide to all covered employees written notice of any benefit reductions during the contract period at least 30 days before such reductions

become effective.

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the costs and benefits, of the particular mandated benefit.

**§ 8.01-401.2. Chiropractor, advanced practice registered nurse, or physician assistant as expert witness.**

A. A doctor of chiropractic, when properly qualified, may testify as an expert witness in a court of law as to etiology, diagnosis, prognosis, treatment, treatment plan, and disability, including anatomical, physiological, and pathological considerations within the scope of the practice of chiropractic as defined in § 54.1-2900.

B. A physician assistant or *an advanced practice registered nurse practitioner*, when properly qualified, may testify as an expert witness in a court of law as to etiology, diagnosis, prognosis, treatment, treatment plan, and disability, including anatomical, physiological, and pathological considerations within the scope of his activities as authorized pursuant to § 54.1-2952 or 54.1-2957, respectively. However, no physician assistant or *advanced practice registered nurse practitioner* shall be permitted to testify as an expert witness for or against (i) a defendant doctor of medicine or osteopathic medicine in a medical malpractice action regarding the standard of care of a doctor of medicine or osteopathic medicine or (ii) a defendant health care provider in a medical malpractice action regarding causation.

**§ 8.01-581.1. Definitions.**

As used in this chapter:

"Health care" means any act, professional services in nursing homes, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical diagnosis, care, treatment or confinement.

"Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, a dentist, a pharmacist, a registered nurse or licensed practical nurse or a person who holds a multistate privilege to practice such nursing under the Nurse Licensure Compact, *an advanced practice registered nurse practitioner*, an optometrist, a podiatrist, a physician assistant, a chiropractor, a physical therapist, a physical therapy assistant, a clinical psychologist, a clinical social worker, a professional counselor, a licensed marriage and family therapist, a licensed dental hygienist, a health maintenance organization, or an emergency medical care attendant or technician who provides services on a fee basis; (ii) a professional corporation, all of whose shareholders or members are so licensed; (iii) a partnership, all of whose partners are so licensed; (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination; (v) a professional limited liability company comprised of members as described in subdivision A 2 of § 13.1-1102; (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services; or (vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced herein, acting within the course and scope of his employment or engagement as related to health care or professional services.

"Health maintenance organization" means any person licensed pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 who undertakes to provide or arrange for one or more health care plans.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Impartial attorney" means an attorney who has not represented (i) the claimant, his family, his partners, co-proprietors or his other business interests; or (ii) the health care provider, his family, his partners, co-proprietors or his other business interests.

"Impartial health care provider" means a health care provider who (i) has not examined, treated or been consulted regarding the claimant or his family; (ii) does not anticipate examining, treating, or being consulted regarding the claimant or his family; or (iii) has not been an employee, partner or co-proprietor of the health care provider against whom the claim is asserted.

"Malpractice" means any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient.

"Patient" means any natural person who receives or should have received health care from a licensed health care provider except those persons who are given health care in an emergency situation which exempts the health care provider from liability for his emergency services in accordance with § 8.01-225 or 44-146.23.



"Physician" means a person licensed to practice medicine or osteopathy in this Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Professional services in nursing homes" means services provided in a nursing home, as that term is defined in clause (iv) of the definition of health care provider in this section, by a health care provider related to health care, staffing to provide patient care, psycho-social services, personal hygiene, hydration, nutrition, fall assessments or interventions, patient monitoring, prevention and treatment of medical conditions, diagnosis or therapy.

**§ 13.1-543. Definitions.**

A. As used in this chapter:

"Eligible employee stock ownership plan" means an employee stock ownership plan as such term is defined in § 4975(e)(7) of the Internal Revenue Code of 1986, as amended, sponsored by a professional corporation and with respect to which:

1. All of the trustees of the employee stock ownership plan are individuals who are duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter; however, if a conflict of interest exists for one or more trustees with respect to a specific issue or transaction, such trustees may appoint a special independent trustee or special fiduciary, who is not duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, which special independent trustee shall be authorized to make decisions only with respect to the specific issue or transaction that is the subject of the conflict;

2. The employee stock ownership plan provides that no shares, fractional shares, or rights or options to purchase shares of the professional corporation shall at any time be issued, sold, or otherwise transferred directly to anyone other than an individual duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, unless such shares are transferred as a plan distribution to a plan beneficiary and subject to immediate repurchase by the professional corporation, the employee stock ownership plan or another person authorized to hold such shares; however:

a. With respect to a professional corporation rendering the professional services of public accounting or certified public accounting:

(1) The employee stock ownership plan may permit individuals who are not duly licensed or otherwise legally authorized to render these services to participate in such plan, provided such individuals are employees of the corporation and hold less than a majority of the beneficial interests in such plan; and

(2) At least 51 percent of the total of allocated and unallocated equity interests in the corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in § 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate separate from any interests held by such employee stock ownership plan; and

b. With respect to a professional corporation rendering the professional services of architects, professional engineers, land surveyors, landscape architects, or certified interior designers, the employee stock ownership plan may permit individuals who are not duly licensed to render the services of architects, professional engineers, land surveyors, or landscape architects, or individuals legally authorized to use the title of certified interior designers to participate in such plan, provided such individuals are employees of the corporation and together hold not more than one-third of the beneficial interests in such plan, and that the total of the shares (i) held by individuals who are employees but not duly licensed to render such services or legally authorized to use a title and (ii) held by the trustees of such employee stock ownership plan for the benefit of individuals who are employees but not duly licensed to render such services or legally authorized to use a title, shall not exceed one-third of the shares of the corporation; and

3. The professional corporation, the trustees of the employee stock ownership plan, and the other shareholders of the professional corporation comply with the foregoing provisions of the plan.

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in § 13.1-1102, (ii) a professional corporation as defined in this subsection, or (iii) a partnership that is registered as a registered limited liability partnership registered under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional corporation" means a corporation whose articles of incorporation set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its shareholders or members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the corporation, including the trustees of an eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific purpose of rendering the professional services of architects, professional engineers, land surveyors, or landscape architects, or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect, including the trustees of an eligible employee stock ownership plan, or by persons legally authorized within the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter or under Chapter 10 (§ 13.1-801 et seq.) for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, optometry, physical therapy, the behavioral science professions, and audiology or speech pathology, and all of whose shares are held by or all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, ~~nurse practitioners~~ *advanced practice registered nursing*, optometry, physical therapy, the behavioral science professions, ~~or~~ audiology or speech pathology ~~or of a clinical nurse specialist~~, including the trustees of an eligible employee stock ownership plan; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, or *advanced practice registered nursing* ~~nurse practitioner~~ ~~or clinical nurse specialist~~ to conduct his practice in a manner contrary to the standards of ethics of his branch of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, or nursing, as the case may be.

"Professional service" means any type of personal service to the public that requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, ~~nurse practitioners~~ *advanced practice registered nurses*, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified interior designers, public accountants, certified public accountants, attorneys-at-law, insurance consultants, *and* audiologists or speech pathologists; ~~and clinical nurse specialists~~. For the purposes of this chapter, the following shall be deemed to be rendering the same professional service:

1. Architects, professional engineers, and land surveyors; and
2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1; *and* practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1; ~~and one or more clinical nurse specialists who render mental health services, licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing.~~

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical school that is an "institution" as that term is defined in § 23.1-1100.

**§ 13.1-1102. Definitions.**

A. As used in this chapter:

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in this subsection, (ii) a professional corporation as defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional limited liability company" means a limited liability company whose articles of organization set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the professional limited liability company or (ii) organized under this chapter for the sole and specific purpose of rendering professional service of architects, professional engineers, land surveyors, or landscape architects or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose membership interests are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect, or by persons legally authorized within the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more ~~nurse practitioners~~ *advanced practice registered nurses*, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, ~~or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, of advanced practice registered nursing, optometry, physical therapy, the behavioral science professions, and audiology or speech pathology and all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, nurse practitioners advanced practice registered nursing, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or of a clinical nurse specialist; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, or audiology or speech pathology or a an advanced practice registered nurse practitioner or clinical nurse specialist to conduct that person's practice in a manner contrary to the standards of ethics of that person's branch of the healing arts, optometry, physical therapy, the behavioral science professions, or audiology or speech pathology, or advanced practice registered nursing, as the case may be.~~

"Professional services" means any type of personal service to the public that requires as a condition precedent to the rendering of that service or the use of that title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, ~~nurse practitioners advanced practice registered nurses~~, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified interior designers, public accountants, certified public accountants, attorneys at law, insurance consultants, audiologists or speech pathologists and ~~clinical nurse specialists~~. For the purposes of this chapter, the following shall be deemed to be rendering the same professional services:

1. Architects, professional engineers, and land surveyors; and
2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, ~~nurse practitioners advanced practice registered nurses~~, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, physical therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, and practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1; and ~~clinical nurse specialists who render mental health services licensed under~~

Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical school that is an "institution" as that term is defined in § 23.1-1100.

C. Except as expressly otherwise provided, all terms defined in § 13.1-1002 shall have the same meanings for purposes of this chapter.

**§ 16.1-336. Definitions.**

When used in this article, unless the context otherwise requires:

"Community services board" has the same meaning as provided in § 37.2-100. Whenever the term community services board appears, it shall include behavioral health authority, as that term is defined in § 37.2-100.

"Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a minor 14 years of age or older and by a parent or a legally authorized custodian.

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department of Behavioral Health and Developmental Services, (iii) is able to provide an independent examination of the minor, (iv) is not related by blood, marriage, or adoption to, or is not the legal guardian of, the minor being evaluated, (v) has no financial interest in the admission or treatment of the minor being evaluated, (vi) has no investment interest in the facility detaining or admitting the minor under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department of Behavioral Health and Developmental Services.

"Incapable of making an informed decision" means unable to understand the nature, extent, or probable consequences of a proposed treatment or unable to make a rational evaluation of the risks and benefits of the proposed treatment as compared with the risks and benefits of alternatives to the treatment. Persons with dysphasia or other communication disorders who are mentally competent and able to communicate shall not be considered incapable of giving informed consent.

"Inpatient treatment" means placement for observation, diagnosis, or treatment of mental illness in a psychiatric hospital or in any other type of mental health facility determined by the Department of Behavioral Health and Developmental Services to be substantially similar to a psychiatric hospital with respect to restrictions on freedom and therapeutic intrusiveness.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

"Judge" means a juvenile and domestic relations district judge. In addition, "judge" includes a retired judge sitting by designation pursuant to § 16.1-69.35, substitute judge, or special justice authorized by § 37.2-803 who has completed a training program regarding the provisions of this article, prescribed by the Executive Secretary of the Supreme Court.

"Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the minor or others from physical injury.

"Mental health facility" means a public or private facility for the treatment of mental illness operated or licensed by the Department of Behavioral Health and Developmental Services.

"Mental illness" means a substantial disorder of the minor's cognitive, volitional, or emotional processes that demonstrably and significantly impairs judgment or capacity to recognize reality or to control behavior. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior. Intellectual disability, head injury, a learning disability, or a seizure disorder is not sufficient, in itself, to justify a finding of mental illness within the meaning of this article.

"Minor" means a person less than 18 years of age.

"Parent" means (i) a biological or adoptive parent who has legal custody of the minor, including either parent if custody is shared under a joint decree or agreement, (ii) a biological or adoptive parent with whom the minor regularly resides, (iii) a person judicially appointed as a legal guardian of the minor, or (iv) a person who exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent, upon provisional adoption or otherwise by operation of law. The director of the local department of social services, or his designee, may stand as the minor's parent when the

minor is in the legal custody of the local department of social services.

"Qualified evaluator" means a psychiatrist or a psychologist licensed in Virginia by either the Board of Medicine or the Board of Psychology, or if such psychiatrist or psychologist is unavailable, (i) any mental health professional licensed in Virginia through the Department of Health Professions as a clinical social worker, professional counselor, marriage and family therapist, *or psychiatric advanced practice registered nurse practitioner, or clinical nurse specialist*, or (ii) any mental health professional employed by a community services board. All qualified evaluators shall (a) be skilled in the diagnosis and treatment of mental illness in minors, (b) be familiar with the provisions of this article, and (c) have completed a certification program approved by the Department of Behavioral Health and Developmental Services. The qualified evaluator shall (1) not be related by blood, marriage, or adoption to, or is not the legal guardian of, the minor being evaluated, (2) not be responsible for treating the minor, (3) have no financial interest in the admission or treatment of the minor, (4) have no investment interest in the facility detaining or admitting the minor under this article, and (5) except for employees of state hospitals, the U.S. Department of Veterans Affairs, and community services boards, not be employed by the facility.

"Treatment" means any planned intervention intended to improve a minor's functioning in those areas which show impairment as a result of mental illness.

**§ 18.2-72. When abortion lawful during first trimester of pregnancy.**

Notwithstanding any of the provisions of § 18.2-71, it shall be lawful for (i) any physician licensed by the Board of Medicine to practice medicine and surgery or (ii) any person jointly licensed by the Boards of Medicine and Nursing as a *an advanced practice registered nurse practitioner* and acting within such person's scope of practice to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman during the first trimester of pregnancy.

**§ 18.2-76. Informed written consent required.**

Before performing any abortion or inducing any miscarriage or terminating a pregnancy as provided in § 18.2-72, 18.2-73, or 18.2-74, the physician or, if such abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the *advanced practice registered nurse practitioner* authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination shall obtain the informed written consent of the pregnant woman. However, if the woman has been adjudicated incapacitated by any court of competent jurisdiction or if the physician or, if the abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the *advanced practice registered nurse practitioner* authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination knows or has good reason to believe that such woman is incapacitated as adjudicated by a court of competent jurisdiction, then only after permission is given in writing by a parent, guardian, committee, or other person standing in loco parentis to the woman, may the physician or, if the abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the *advanced practice registered nurse practitioner* authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination perform the abortion or otherwise terminate the pregnancy.

**§ 22.1-178. Requirements for persons employed to drive school buses.**

A. No school board shall hire, employ, or enter into any agreement with any person for the purposes of operating a school bus transporting pupils unless the person proposed to so operate such school bus shall:

1. Have a physical examination of a scope prescribed by the Board with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board showing the results of such examination.

2. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the records of such Department do not disclose that the person, within the preceding five years, has been convicted upon a charge of driving under the influence of alcohol or drugs, convicted of a felony or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 or, within the preceding 12 months, has been convicted of two or more moving traffic violations or required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-498.

3. Furnish a statement signed by two reputable persons who reside in the school division or in the applicant's community that the person is of good moral character.

4. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.2-339.

5. Have reached the age of 18 by the first day of the school year.

B. Any school board may require proof of current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator as a condition to employment to operate a school bus transporting pupils.

797 C. School boards may require persons accepting employment as a driver of a school bus transporting  
798 pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing.  
799 Any such tests shall be conducted in compliance with Board regulations.

800 D. The documents required pursuant to subdivisions A 1 and 2 shall be furnished annually prior to  
801 the anniversary date of the employment agreement as a condition to continuing employment to operate a  
802 school bus.

803 E. The documents required pursuant to this section shall be filed with, and made a part of, the  
804 records of the school board employing such person as a school bus operator.

805 F. The Department shall furnish to the several division superintendents the necessary forms to be  
806 used by applicants in furnishing the information required by this section. Insofar as practicable, such  
807 forms shall be designed to limit paperwork, avoid the possibility of mistake, and furnish all parties  
808 involved with a complete and accurate record of the information required.

809 G. The physical examination required by subsection A may be performed and the report of the  
810 results signed by a licensed *advanced practice registered nurse practitioner* or physician assistant.

811 **§ 22.1-270. Preschool physical examinations.**

812 A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a  
813 school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed  
814 physician, or a licensed *advanced practice registered nurse practitioner* or licensed physician assistant  
815 acting under the supervision of a licensed physician, of a comprehensive physical examination of a  
816 scope prescribed by the State Health Commissioner performed within the 12 months prior to the date  
817 such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such  
818 pupil furnished such report upon prior admission to another school or school division and providing the  
819 information contained in such report.

820 If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that  
821 reason cannot furnish the report or records required by (i) or (ii) of this subsection, and the person  
822 seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating  
823 that, to the best of his knowledge, such pupil is in good health and free from any communicable or  
824 contagious disease, the school division shall immediately refer the student to the local school division  
825 liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as  
826 amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the  
827 necessary physical examination by the county or city health department or other clinic or physician's  
828 office and shall immediately admit the pupil to school, as required by such Act.

829 B. The physician, or licensed *advanced practice registered nurse practitioner* or licensed physician  
830 assistant acting under the supervision of a licensed physician, making a report of a physical examination  
831 required by this section shall, at the end of such report, summarize the abnormal physical findings, if  
832 any, and shall specifically state what, if any, conditions are found that would identify the child as  
833 handicapped.

834 C. Such physical examination report shall be placed in the child's health record at the school and  
835 shall be made available for review by any employee or official of the State Department of Health or any  
836 local health department at the request of such employee or official.

837 D. Such physical examination shall not be required of any child whose parent shall object on  
838 religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in  
839 writing that, to the best of his knowledge, such child is in good health and free from any communicable  
840 or contagious disease.

841 E. The health departments of all of the counties and cities of the Commonwealth shall conduct such  
842 physical examinations for medically indigent children without charge upon request and may provide  
843 such examinations to others on such uniform basis as such departments may establish.

844 F. Parents of entering students shall complete a health information form which shall be distributed by  
845 the local school divisions. Such forms shall be developed and provided jointly by the Department of  
846 Education and Department of Health, or developed and provided by the school division and approved by  
847 the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless  
848 reasonable extensions have been granted by the superintendent or his designee. Upon failure of the  
849 parent to complete such form within the extended time, the superintendent may send to the parent  
850 written notice of the date he intends to exclude the child from school; however, no child who is a  
851 homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for  
852 such failure to complete such form.

853 **§ 22.1-271.2. Immunization requirements.**

854 A. No student shall be admitted by a school unless at the time of admission the student or his parent  
855 submits documentary proof of immunization to the admitting official of the school or unless the student  
856 is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in  
857 subdivision A 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school  
858 shall notify the student or his parent (i) that it has no documentary proof of immunization for the

student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, a licensed *advanced practice registered nurse practitioner*, a registered nurse, or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, *advanced practice registered nurse practitioner*, registered nurse, or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, a licensed *advanced practice registered nurse practitioner*, or a local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to ~~clauses~~ *clause* (i) or (ii) of this subsection, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.)(the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within 30 calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted, including those students who are homeless children or youths as defined in subdivision A 7 of § 22.1-3.

F. The requirement for Haemophilus Influenzae Type b immunization as provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through grade 12.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education.

#### **§ 22.1-271.4. Health requirements for home-instructed, exempted, and excused children.**

In addition to compliance with the requirements of subsection B, D, or I of § 22.1-254 or § 22.1-254.1, any parent, guardian or other person having control or charge of a child being home instructed, exempted or excused from school attendance shall comply with the immunization requirements provided in § 32.1-46 in the same manner and to the same extent as if the child has been enrolled in and is attending school.

920 Upon request by the division superintendent, the parent shall submit to such division superintendent  
921 documentary proof of immunization in compliance with § 32.1-46.

922 No proof of immunization shall be required of any child upon submission of (i) an affidavit to the  
923 division superintendent stating that the administration of immunizing agents conflicts with the parent's or  
924 guardian's religious tenets or practices or (ii) a written certification from a licensed physician, licensed  
925 *advanced practice registered nurse practitioner*, or local health department that one or more of the  
926 required immunizations may be detrimental to the child's health, indicating the specific nature of the  
927 medical condition or circumstance that contraindicates immunization.

928 **§ 22.1-271.7. Public middle school student-athletes; pre-participation physical examination.**

929 No public middle school student shall be a participant on or try out for any school athletic team or  
930 squad with a predetermined roster, regular practices, and scheduled competitions with other middle  
931 schools unless such student has submitted to the school principal a signed report from a licensed  
932 physician, a licensed *advanced practice registered nurse practitioner* practicing in accordance with the  
933 provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed  
934 physician attesting that such student has been examined, within the preceding 12 months, and found to  
935 be physically fit for athletic competition.

936 **§ 22.1-274. School health services.**

937 A. A school board shall provide pupil personnel and support services in compliance with  
938 § 22.1-253.13:2. A school board may employ school nurses, physicians, physical therapists, occupational  
939 therapists, and speech therapists. No such personnel shall be employed unless they meet such standards  
940 as may be determined by the Board. Subject to the approval of the appropriate local governing body, a  
941 local health department may provide personnel for health services for the school division.

942 B. In implementing subsection P of § 22.1-253.13:2, relating to providing support services that are  
943 necessary for the efficient and cost-effective operation and maintenance of its public schools, each  
944 school board may strive to employ, or contract with local health departments for, nursing services  
945 consistent with a ratio of at least one nurse per 1,000 students. In those school divisions in which there  
946 are more than 1,000 students in average daily membership in school buildings, this section shall not be  
947 construed to encourage the employment of more than one nurse per school building. Further, this section  
948 shall not be construed to mandate the aspired-to ratios.

949 C. The Board shall monitor the progress in achieving the ratio set forth in subsection B and any  
950 subsequent increase in prevailing statewide costs, and the mechanism for funding health services,  
951 pursuant to subsection P of § 22.1-253.13:2 and the appropriation act. The Board shall also determine  
952 how school health funds are used and school health services are delivered in each locality.

953 D. With the exception of school administrative personnel and persons employed by school boards  
954 who have the specific duty to deliver health-related services, no licensed instructional employee,  
955 instructional aide, or clerical employee shall be disciplined, placed on probation, or dismissed on the  
956 basis of such employee's refusal to (i) perform nonemergency health-related services for students or (ii)  
957 obtain training in the administration of insulin and glucagon. However, instructional aides and clerical  
958 employees may not refuse to dispense oral medications.

959 For the purposes of this subsection, "health-related services" means those activities that, when  
960 performed in a health care facility, must be delivered by or under the supervision of a licensed or  
961 certified professional.

962 E. Each school board shall ensure that in school buildings with an instructional and administrative  
963 staff of 10 or more (i) at least three employees have current certification or training in emergency first  
964 aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (ii) if one or  
965 more students diagnosed as having diabetes attend such school, at least two employees have been trained  
966 in the administration of insulin and glucagon. In school buildings with an instructional and  
967 administrative staff of fewer than 10, school boards shall ensure that (a) at least two employees have  
968 current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an  
969 automated external defibrillator and (b) if one or more students diagnosed as having diabetes attend such  
970 school, at least one employee has been trained in the administration of insulin and glucagon. For  
971 purposes of this subsection, "employee" includes any person employed by a local health department who  
972 is assigned to the public school pursuant to an agreement between the local health department and the  
973 school board. When a registered nurse, *advanced practice registered nurse practitioner*, physician, or  
974 physician assistant is present, no employee who is not a registered nurse, *advanced practice registered*  
975 *nurse practitioner*, physician, or physician assistant shall assist with the administration of insulin or  
976 administer glucagon. Prescriber authorization and parental consent shall be obtained for any employee  
977 who is not a registered nurse, *advanced practice registered nurse practitioner*, physician, or physician  
978 assistant to assist with the administration of insulin and administer glucagon.

979 **§ 22.1-274.2. Possession and administration of inhaled asthma medications and epinephrine by**  
980 **certain students or school board employees.**

981 A. Local school boards shall develop and implement policies permitting a student with a diagnosis of



asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:

1. Written consent of the parent, as defined in § 22.1-1, of a student with a diagnosis of asthma or anaphylaxis, or both, that the student may self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed *advanced practice registered nurse practitioner*, that (i) identifies the student; (ii) states that the student has a diagnosis of asthma or anaphylaxis, or both, and has approval to self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications or auto-injectable epinephrine, such as before exercising or engaging in physical activity to prevent the onset of asthma symptoms or to alleviate asthma symptoms after the onset of an asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications or auto-injectable epinephrine, or both, as the case may be.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications and auto-injectable epinephrine, and before the permission to possess and self-administer inhaled asthma medications and auto-injectable epinephrine at any point during the school year is revoked.

5. Self-administration of inhaled asthma medications and auto-injectable epinephrine to be consistent with the purposes of the Virginia School Health Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with §§ 22.1-287 and 22.1-289 and the federal Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. § 1232g, which govern the disclosure and dissemination of information contained in student scholastic records.

B. The permission granted a student with a diagnosis of asthma or anaphylaxis, or both, to possess and self-administer inhaled asthma medications or auto-injectable epinephrine, or both, shall be effective for one school year. Permission to possess and self-administer such medications shall be renewed annually. For the purposes of this section, "one school year" means 365 calendar days.

C. Local school boards shall adopt and implement policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular school hours any such epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

D. Each local school board shall adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication.

#### **§ 32.1-19. Duties prescribed by Board.**

A. The Commissioner shall perform such duties as the Board may require, in addition to the duties required by law.

B. The Commissioner shall, along with the Superintendent of Public Instruction, work to combat childhood obesity and other chronic health conditions that affect school-age children.

C. The Commissioner shall ensure, in the licensure of health care facilities, that quality of care, patient safety, and patient privacy are the overriding goals of such licensure and related enforcement efforts.

D. The Commissioner shall coordinate the Department's emergency preparedness and response efforts.

E. The Commissioner shall ensure that prevention of disease and protection of public health remain the Department's overriding goals.

F. The Commissioner shall designate a senior staff member of the Department, who shall be a licensed physician, to oversee minority health efforts of the Department.

G. The Commissioner shall designate a senior official of the Department, who shall be a licensed physician or *an advanced practice registered nurse practitioner*, to coordinate all women's health efforts in the Department including, but not limited to, the "Every Woman's Life Program," and other efforts to prevent, detect, and treat breast cancer, cervical cancer, and other diseases that primarily affect women.

**§ 32.1-23.2. Sexual assault nurse examiner information.**

A. The Department shall develop and make available on a website maintained by the Department information about the availability of certified sexual assault nurse examiners in the Commonwealth. Such information shall include the name of the hospital at which a certified sexual assault nurse examiner is employed; the location, including street address, of the hospital; and the contact information for the hospital. A link to the information shall be prominently displayed on the Department's website, and such information shall be made available in a format that is easily accessible to and navigable by members of the public.

B. Every hospital licensed by the Department shall quarterly report to the Department, in a form and by such date as shall be designated by the Department, the total number of certified sexual assault nurse practitioners *advanced practice registered nurses* employed by the hospital and the location, including street address, and contact information for each location at which such certified sexual assault *advanced practice registered nurse practitioner* provides services.

**§ 32.1-42.1. Administration and dispensing of necessary drugs, devices and vaccines during a declared disaster or emergency.**

A. The Commissioner, pursuant to § 54.1-3408, may authorize persons who are not authorized by law to administer or dispense drugs or devices to administer or dispense all necessary drugs or devices in accordance with protocols established by the Commissioner when (i) the Governor has declared a disaster or a state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health and for the limited purpose of administering vaccines as an approved countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the Commissioner. For purposes of this section, "administer," "device," "dispense," and "drug" shall have the same meaning as provided in § 54.1-3401. The Commissioner shall develop protocols, in consultation with the Department of Health Professions, that address the required training of such persons and procedures for such persons to use in administering or dispensing drugs or devices.

B. Where the Commissioner, pursuant to subsection A, authorizes persons who are not otherwise authorized by law to administer vaccines, such persons shall include any of the following who, due to their education and training, are qualified to administer drugs: (i) any person licensed by a health regulatory board within the Department of Health Professions whose license is in good standing, or was in good standing within the 20 years immediately prior to lapsing; (ii) any emergency medical services provider licensed or certified by the Department whose license or certification is in good standing, or was in good standing within the 20 years immediately prior to lapsing; and (iii) any health professions student enrolled in an accredited program in the Commonwealth who is in good academic standing with such student's school and provided that the school certifies that the student has been properly trained in the administration of vaccines. A health professions student who administers vaccines pursuant to this section shall be supervised by any eligible health care provider who holds a license issued by a health regulatory board within the Department of Health Professions, and the supervising health care provider shall not be required to be licensed in the same health profession for which the student is studying. A person who is licensed as a *an advanced practice registered nurse practitioner* by the Boards of Medicine and Nursing or licensed as a physician assistant by the Board of Medicine who administers vaccines pursuant to this section may administer such vaccine without a written or electronic practice agreement. In the absence of gross negligence or willful misconduct, any such person authorized by the Commissioner or entity overseeing any such person who administers the vaccine pursuant to this section shall not be liable for (a) any actual or alleged injury or wrongful death or (b) any civil cause of action arising from any act or omission arising out of, related to, or alleged to have resulted in the contraction of or exposure to the communicable, contagious, and infectious disease or to have resulted from the administration of the vaccine.

**§ 32.1-46. Immunization of patients against certain diseases.**

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized in accordance with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The required immunizations for attendance at a public or private elementary, middle or secondary school, child care center, nursery school, family day care home, or developmental center shall be those set forth in the State Board of Health Regulations for the Immunization of School Children. The Board's regulations shall at a minimum require:

1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).
2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be administered on or after the fourth birthday.
3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered on or after the fourth birthday.
4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the seventh grade.
5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the manufacturer, for children up to 60 months of age.
6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be administered at age 12 months or older.
7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.
8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.
9. Two properly spaced doses of varicella vaccine. The first dose shall be administered at age 12 months or older.
10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV). One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three dose primary series consisted of a combination of OPV and IPV.
11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV) vaccine for children up to 60 months of age.
12. Two doses of properly spaced human papillomavirus (HPV) vaccine. The first dose shall be administered before the child enters the seventh grade.
13. Two or three properly spaced doses of rotavirus vaccine, depending on the manufacturer, for children up to eight months of age.
14. Two properly spaced doses of hepatitis A vaccine (HAV). The first dose shall be administered at age 12 months or older.
15. Two properly spaced doses of meningococcal conjugate vaccine (MenACWY). The first dose shall be administered prior to entry to seventh grade. The second dose shall be administered prior to entry to twelfth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician, a physician assistant, an advanced practice registered nurse practitioner, a registered nurse, or a licensed practical nurse, or a pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate local health department, which shall administer the vaccines required by the State Board of Health Regulations for the Immunization of School Children without charge to the parent of or person standing in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for all allowable costs associated with the provision of the vaccine. For the purposes of this section, the Department shall be deemed a participating provider with a managed care health insurance plan as defined in § 32.1-137.1.

B. A physician, a physician assistant, an advanced practice registered nurse practitioner, a registered nurse, a licensed practical nurse, a pharmacist, or a local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate that shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, the State Board of Health Regulations for the Immunization of School Children. The State Board of Health shall amend the State Board of Health Regulations for the Immunization of School Children as necessary from time to time to maintain conformity with evidence-based, routinely

recommended vaccinations for children. The adoption of such regulations shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). However, the Department shall (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior to the Board's adoption of the regulations.

D. The provisions of this section shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board;

2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia, a licensed *advanced practice registered nurse practitioner*, or a local health department that states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child; or

3. Because the human papillomavirus is not communicable in a school setting, a parent or guardian, at the parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to receive the human papillomavirus vaccine, after having reviewed materials describing the link between the human papillomavirus and cervical cancer approved for such use by the Board.

E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate immunizations, any physician, physician assistant, *advanced practice registered nurse practitioner*, licensed institutional health care provider, or local or district health department, the Virginia Immunization Information System, and the Department of Health may share immunization and patient locator information without parental authorization, including, but not limited to, the month, day, and year of each administered immunization; the patient's name, address, telephone number, birth date, and social security number; and the parents' names. The immunization information; the patient's name, address, telephone number, birth date, and social security number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

F. The State Board of Health shall review this section annually and make recommendations for revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health Care.

**§ 32.1-50. Examination of persons suspected of having active tuberculosis disease; reporting; report forms; report schedule; laboratory reports and required samples.**

A. Any local health director may request any person having or reasonably suspected of having active tuberculosis disease to be examined immediately for the purpose of ascertaining the presence or absence of the disease. Such examination may be made by any licensed physician or licensed *advanced practice registered nurse practitioner* selected by such person at his own expense and approved by the local health director or by the local health director at no cost to such person.

B. Each physician or *advanced practice registered nurse practitioner* practicing in the Commonwealth who diagnoses or treats a person for active tuberculosis disease, or a physician assistant who treats a person for active tuberculosis disease, as defined in § 32.1-49.1 and each person in charge of a medical care facility providing inpatient or outpatient diagnosis or treatment for active tuberculosis disease shall report to the local health director within such time period and in such manner as may be prescribed by regulations of the Board. Such report, at a minimum, shall include an initial report when there are reasonable grounds to believe that a person has active tuberculosis disease, and a subsequent report when a person ceases treatment for tuberculosis disease. Cessation of treatment may be inferred when the person (i) fails to keep a scheduled appointment, (ii) relocates without transferring care, or (iii) discontinues care either upon or against the advice of the treating physician, physician assistant, or *advanced practice registered nurse practitioner*.

C. The initial disease report shall include the following: the affected person's name; date of birth; gender; address; pertinent clinical, radiographic, microbiologic, and pathologic reports, whether final or pending; such other information as is needed to locate the patient for follow-up; and any other information as prescribed by regulations of the Board.

D. Subsequent reports shall be submitted within such time, at such frequency, and in such manner as may be prescribed by regulations of the Board and shall provide updated clinical status, bacteriologic and radiographic results, assessment of treatment adherence, name of current care provider, and any other information as prescribed by the Board.

E. Every director of any laboratory doing business in the Commonwealth shall, according to the manner and schedule as determined by the Board, report any result diagnostic of or highly correlated with active tuberculosis disease, whether testing is done in-house or referred to an out-of-state laboratory, including cultures positive for tubercle bacilli and smears suggestive of tubercle bacilli, and shall report the results of tests for antimicrobial susceptibility performed on cultures positive for tubercle bacilli. Each director of any laboratory shall also submit a representative and viable sample of the initial culture to the Virginia Division of Consolidated Laboratory Services or other laboratory designated by the Board to receive such specimen in order to (i) ensure testing for antimicrobial susceptibility on each

initial isolate from a person with active tuberculosis disease, and (ii) establish a library of such isolates for the purpose of disease strain analysis as indicated by epidemiological investigations.

**§ 32.1-60. Prenatal tests required.**

Every physician, physician assistant, or *advanced practice registered nurse practitioner* attending a pregnant woman during gestation shall examine and test such woman for such venereal diseases as the Board may designate within 15 days after beginning such attendance. Every other person permitted by law to attend upon pregnant women but not permitted by law to make such examinations and tests, shall cause such examinations and tests to be made by a licensed physician, licensed *advanced practice registered nurse practitioner*, or clinic. Serological tests required by this section may be performed by the Department of General Services, Division of Consolidated Laboratory Services (DCLS).

**§ 32.1-122.6:02. Conditional grants for certain advanced practice registered nursing students.**

A. The Board of Health shall establish annual nursing scholarships for students who intend to enter an accredited *advanced practice registered nurse practitioner or nurse midwife* program in designated schools. The amounts and numbers of such scholarships shall be determined annually as provided in the appropriation act. The Commissioner shall act as fiscal agent for the Board in administration of the scholarship program through a nursing scholarship committee.

B. To administer the scholarship program, the Board shall promulgate regulations which shall include, but are not limited to:

1. Qualifications of applicants;
2. Criteria for award of the scholarship to assure that a recipient will fulfill the practice obligations established in this section;
3. Standards to assure that these scholarships increase access to primary health care for individuals who are indigent or who are recipients of public assistance;

4. Assurances that residents of Virginia, as determined by § 23.1-502, minority students and residents of medically underserved areas are given preference in determining scholarship eligibility and awards;

5. Assurances that a scholarship recipient will practice as a *an advanced practice registered nurse practitioner or nurse midwife* in an underserved area of the Commonwealth within two years following completion of training;

6. Designations that students in *advanced practice registered nurse practitioner* specialties, including nurse midwife, receive priority scholarships;

7. Methods for reimbursement to the Commonwealth by a recipient who fails to complete the educational program or who fails to honor the obligation to engage in practice as a *an advanced practice registered nurse practitioner or nurse midwife* for a period of years equal to the number of annual scholarships received;

8. Procedures for reimbursing any recipient who has repaid the Commonwealth for part or all of any scholarship and who later fulfills the terms of his contract; and

9. Methods for reporting data related to the recipients of the scholarships.

C. Until such time as a fully accredited nurse midwife education program is established at any health science center in the Commonwealth, the Board may designate that attendance at an accredited program in a nearby state is acceptable for scholarship eligibility.

D. For purposes of this section, the term "underserved area" shall include those medically underserved areas designated by the Board pursuant to § 32.1-122.5 and health professional shortage areas designated in accordance with the criteria established in 42 C.F.R. Part 5.

E. Any scholarship amounts repaid by recipients pursuant to subdivision B 7, and any interest thereon, shall be used only for the purposes of this section and shall not revert to the general fund.

**§ 32.1-134.2. Clinical privileges for certain practitioners.**

The grant or denial of clinical privileges to licensed podiatrists and certified nurse midwives licensed as *nurse practitioners advanced practice registered nurses* pursuant to § 54.1-2957 by any hospital licensed in this Commonwealth, and the determination by the hospital of the scope of such privileges, shall be based upon such practitioner's professional license, experience, competence, ability, and judgment, and the reasonable objectives and regulations of the hospital in which such privileges are sought.

**§ 32.1-134.3. Response to applications for clinical privileges.**

Whenever a podiatrist or certified nurse midwife licensed as a *an advanced practice registered nurse practitioner* makes application to any hospital for clinical privileges, the hospital shall either approve or disapprove the application within 120 calendar days after it has received all necessary information to make a determination as provided in § 32.1-134.2 from the practitioner.

**§ 32.1-134.4. Right of podiatrists or advanced practice registered nurses to injunction.**

Any licensed podiatrist or certified nurse midwife licensed as a *an advanced practice registered nurse practitioner* in Virginia who is aggrieved by any violation of § 32.1-134.2 or § 32.1-134.3 shall have the right to seek an injunction from the circuit court of the city or county in which the hospital

1289 alleged to have committed the violation is located, prohibiting any further such violation. The provisions  
1290 of this section shall not be deemed to impair or affect any other right or remedy. A violation of this  
1291 section, however, shall not constitute a violation of the provisions of this article for the purposes of  
1292 § 32.1-135.

1293 **§ 32.1-138. Enumeration; posting of policies; staff training; responsibilities devolving on**  
1294 **guardians, etc.; exceptions; certification of compliance.**

1295 A. The governing body of a nursing home facility required to be licensed under the provisions of  
1296 Article 1 (§ 32.1-123 et seq.) of this chapter, through the administrator of such facility, shall cause to be  
1297 promulgated policies and procedures to ensure that, at the minimum, each patient admitted to such  
1298 facility:

1299 1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of  
1300 admission and during his stay, of his rights and of all rules and regulations governing patient conduct  
1301 and responsibilities;

1302 2. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of  
1303 admission and during his stay, of services available in the facility, the terms of such services, and  
1304 related charges, including any charges for services not covered under Titles XVIII or XIX of the United  
1305 States Social Security Act or not covered by the facility's basic per diem rate;

1306 3. Is fully informed in summary form of the findings concerning the facility in federal Centers for  
1307 Medicare & Medicaid Services surveys and investigations, if any;

1308 4. Is fully informed by a physician, a physician assistant, or *an advanced practice registered nurse*  
1309 ~~practitioner~~ of his medical condition unless medically contraindicated as documented by a physician, a  
1310 physician assistant, or *an advanced practice registered nurse practitioner* in his medical record and is  
1311 afforded the opportunity to participate in the planning of his medical treatment and to refuse to  
1312 participate in experimental research;

1313 5. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients,  
1314 or for nonpayment for his stay except as prohibited by Titles XVIII or XIX of the United States Social  
1315 Security Act, and is given reasonable advance notice as provided in § 32.1-138.1 to ensure orderly  
1316 transfer or discharge, and such actions are documented in his medical record;

1317 6. Is encouraged and assisted, throughout the period of his stay, to exercise his rights as a patient  
1318 and as a citizen and to this end may voice grievances and recommend changes in policies and services  
1319 to facility staff and to outside representatives of his choice, free from restraint, interference, coercion,  
1320 discrimination, or reprisal;

1321 7. May manage his personal financial affairs, or may have access to records of financial transactions  
1322 made on his behalf at least once a month and is given at least a quarterly accounting of financial  
1323 transactions made on his behalf should the facility accept his written delegation of this responsibility to  
1324 the facility for any period of time in conformance with state law;

1325 8. Is free from mental and physical abuse and free from chemical and, except in emergencies,  
1326 physical restraints except as authorized in writing by a physician for a specified and limited period of  
1327 time or when necessary to protect the patient from injury to himself or to others;

1328 9. Is assured confidential treatment of his personal and medical records and may approve or refuse  
1329 their release to any individual outside the facility, except in case of his transfer to another health care  
1330 institution or as required by law or third-party payment contract;

1331 10. Is treated with consideration, respect, and full recognition of his dignity and individuality,  
1332 including privacy in treatment and in care for his personal needs;

1333 11. Is not required to perform services for the facility that are not included for therapeutic purposes  
1334 in his plan of care;

1335 12. May associate and communicate privately with persons of his choice and send and receive his  
1336 personal mail unopened, unless medically contraindicated as documented by his physician in his medical  
1337 record;

1338 13. May meet with and participate in activities of social, religious and community groups at his  
1339 discretion, unless medically contraindicated as documented by his physician, physician assistant, or  
1340 *advanced practice registered nurse practitioner* in his medical record;

1341 14. May retain and use his personal clothing and possessions as space permits unless to do so would  
1342 infringe upon rights of other patients and unless medically contraindicated as documented by his  
1343 physician, physician assistant, or *advanced practice registered nurse practitioner* in his medical record;

1344 15. If married, is assured privacy for visits by his or her spouse and if both are inpatients in the  
1345 facility, is permitted to share a room with such spouse unless medically contraindicated as documented  
1346 by the attending physician, physician assistant, or *advanced practice registered nurse practitioner* in the  
1347 medical record; and

1348 16. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal  
1349 representative, prior to or at the time of admission and during his stay, that he should exercise whatever  
1350 due diligence he deems necessary with respect to information on any sexual offenders registered

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

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

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

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

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

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

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

**§ 32.1-162.15:2. (Effective July 1, 2023) Definitions.**

"Anonymous physical evidence recovery kit" has the same meaning as in § 19.2-11.5.

"Approved pediatric health care facility" means a pediatric health care facility for which a plan for the delivery of services to pediatric survivors of sexual assault has been approved pursuant to § 32.1-162.15:6.

"Board" means the Board of Health.

"Department" means the Department of Health.

"Emergency contraception" means medication approved by the U.S. Food and Drug Administration that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.

"Follow-up health care" means any physical examination, laboratory tests to determine the presence of sexually transmitted infection, or appropriate medications, including HIV-prophylaxis, provided to a survivor of sexual assault by a health care provider within 90 days after the date on which treatment or transfer services pursuant to this article are first provided.

"Forensic medical examination" means health care services provided to a survivor of sexual assault that include medical history, physical examination, laboratory testing, assessment for drug-facilitated or alcohol-facilitated sexual assault, collection of evidence in accordance with the requirements of Chapter 1.2 (§ 19.2-11.5 et seq.) of Title 19.2, and discharge and follow-up health care planning necessary to ensure the health, safety, and welfare of the survivor of sexual assault and the collection and preservation of evidence that may be used in a criminal proceeding.

"Hospital" means any hospital licensed by the Department pursuant to this chapter.

"Pediatric health care facility" means a hospital, clinic, or physician's office that provides health care services to pediatric patients.

"Pediatric survivor of sexual assault" means a survivor of sexual assault who is under 18 years of age.

"Physical evidence recovery kit" has the same meaning as in § 19.2-11.5.

"Sexual assault forensic examiner" means a sexual assault nurse examiner, a physician, a physician

1412 assistant, *an advanced practice registered nurse practitioner*, or a registered nurse who has completed  
1413 training that meets or is substantially similar to the Sexual Assault Nurse Examiner Education  
1414 Guidelines established by the International Association of Forensic Nurses.

1415 "Sexual assault survivor transfer services" means an appropriate medical examination and such  
1416 stabilizing treatment as may be necessary prior to the transfer of a sexual assault survivor from a  
1417 transfer hospital to a treatment hospital in accordance with the provisions of a transfer plan approved by  
1418 the Department.

1419 "Sexual assault survivor treatment services" means a forensic medical examination and other health  
1420 care services provided to a sexual assault survivor by a hospital in accordance with § 32.1-162.15:4 or  
1421 pediatric health care facility in accordance with § 32.1-162.15:6.

1422 "Transfer hospital" means a hospital with a sexual assault survivor transfer plan approved by the  
1423 Department.

1424 "Transportation service" means transportation provided to a survivor of sexual assault who is  
1425 transferred from a transfer hospital, treatment hospital, or approved pediatric health care facility to a  
1426 treatment hospital or approved pediatric care facility pursuant to a transfer plan approved in accordance  
1427 with this article.

1428 "Treatment hospital" means a hospital with a sexual assault survivor treatment plan approved by the  
1429 Department to provide sexual assault survivor treatment services to all survivors of sexual assault who  
1430 present with a complaint of sexual assault within the previous seven days or who have disclosed past  
1431 sexual assault by a specific individual and were in the care of that individual within the previous seven  
1432 days.

1433 **§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief**  
1434 **Medical Examiner.**

1435 A. A death certificate, including, if known, the social security number or control number issued by  
1436 the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death  
1437 that occurs in the Commonwealth. Non-electronically filed death certificates shall be filed with the  
1438 registrar of any district in the Commonwealth within three days after such death and prior to final  
1439 disposition or removal of the body from the Commonwealth. Electronically filed death certificates shall  
1440 be filed with the State Registrar of Vital Records through the Electronic Death Registration System  
1441 within three days after such death and prior to final disposition or removal of the body from the  
1442 Commonwealth. Any death certificate shall be registered by such registrar if it has been completed and  
1443 filed in accordance with the following requirements:

1444 1. If the place of death is unknown, but the dead body is found in the Commonwealth, the death  
1445 shall be registered in the Commonwealth and the place where the dead body is found shall be shown as  
1446 the place of death. If the date of death is unknown, it shall be determined by approximation, taking into  
1447 consideration all relevant information, including information provided by the immediate family regarding  
1448 the date and time that the deceased was last seen alive, if the individual died in his home; and

1449 2. When death occurs in a moving conveyance, in the United States of America and the body is first  
1450 removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth  
1451 and the place where it is first removed shall be considered the place of death. When a death occurs on a  
1452 moving conveyance while in international waters or air space or in a foreign country or its air space and  
1453 the body is first removed from the conveyance in the Commonwealth, the death shall be registered in  
1454 the Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

1455 B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or  
1456 next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall complete the  
1457 certificate of death. He shall obtain personal data of the deceased necessary to complete the certificate of  
1458 death, including the social security number of the deceased or control number issued to the deceased by  
1459 the Department of Motor Vehicles pursuant to § 46.2-342, from the best qualified person or source  
1460 available and obtain the medical certification from the person responsible therefor.

1461 If a licensed funeral director, funeral service licensee, or representative of the office of the state  
1462 anatomical program completes the certificate of death, he shall file the certificate of death with the State  
1463 Registrar of Vital Records electronically using the Electronic Death Registration System and in  
1464 accordance with the requirements of subsection A. If a member of the next of kin of the deceased  
1465 completes the certificate of death, he shall file the certificate of death in accordance with the  
1466 requirements of subsection A but shall not be required to file the certificate of death electronically.

1467 C. The medical certification shall be completed and filed electronically with the State Registrar of  
1468 Vital Records using the Electronic Death Registration System within 24 hours after death by the  
1469 physician or autonomous nurse practitioner in charge of the patient's care for the illness or condition that  
1470 resulted in death except when inquiry or investigation by the Office of the Chief Medical Examiner is  
1471 required by § 32.1-283 or 32.1-285.1, or by the physician or autonomous nurse practitioner who  
1472 pronounces death pursuant to § 54.1-2972. If the death occurred while under the care of a hospice  
1473 provider, the medical certification shall be completed by the decedent's health care provider and filed



electronically with the State Registrar of Vital Records using the Electronic Death Registration System for completion of the death certificate.

In the absence of such physician or autonomous nurse practitioner or with his approval, the certificate may be completed and filed by the following: (i) another physician or autonomous nurse practitioner employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) ~~a~~ *an advanced practice registered nurse practitioner* who is not an autonomous nurse practitioner practicing in accordance with the provisions of § 54.1-2957; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician or autonomous nurse practitioner specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; (vii) an individual to whom the physician or autonomous nurse practitioner has delegated authority to complete and file the certificate, if such individual has access to the medical history of the case and death is due to natural causes; or (viii) a physician who is not licensed by the Board of Medicine who was in charge of the patient's care for the illness or condition that resulted in death. A physician described in clause (viii) who completes a certificate in accordance with this subsection shall not be required to register with the Electronic Death Registration System or complete the certificate electronically.

As used in this subsection, "autonomous nurse practitioner" has the same meaning as provided in § 54.1-2972.

D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death to be made and the medical certification portion of the death certificate to be completed and filed within 24 hours after being notified of the death. If the Office of the Chief Medical Examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and file the medical certification portion of the death certificate.

E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972 and the physician, *autonomous* nurse practitioner, or physician assistant is uncertain about the cause of death, he shall use his best medical judgment to certify a reasonable cause of death or contact the health district physician director in the district where the death occurred to obtain guidance in reaching a determination as to a cause of death and document the same.

If the cause of death cannot be determined within 24 hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or autonomous nurse practitioner, as defined in § 54.1-2972, or the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician, autonomous nurse practitioner, the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

F. A physician, *autonomous* nurse practitioner, physician assistant, or individual delegated authority to complete and file a certificate of death by a physician who, in good faith, files a certificate of death or determines the cause of death shall be immune from civil liability, only for such filing and determination of causes of death on such certificate, absent gross negligence or willful misconduct.

#### **§ 32.1-282. Medical examiners.**

A. The Chief Medical Examiner may appoint for each county and city one or more medical examiners, who shall be licensed as a doctor of medicine or osteopathic medicine, a physician assistant, or a *an advanced practice registered nurse practitioner* in the Commonwealth and appointed as agents of the Commonwealth, to assist the Office of the Chief Medical Examiner with medicolegal death investigations. A physician assistant appointed as a medical examiner shall practice in accordance with § 54.1-2952. ~~A~~ *An advanced practice registered nurse practitioner* appointed as a medical examiner shall practice in accordance with § 54.1-2957.

B. At the request of the Chief Medical Examiner, the Assistant Chief Medical Examiner, or their designees, medical examiners may assist the Office of the Chief Medical Examiner with cases requiring medicolegal death investigations in accordance with § 32.1-283.

C. The term of each medical examiner appointed, other than an appointment to fill a vacancy, shall begin on the first day of October of the year of appointment. The term of each medical examiner shall be three years; however, an appointment to fill a vacancy shall be for the unexpired term.

#### **§ 32.1-325. (Effective until date pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.**

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance

1535 services pursuant to Title XIX of the United States Social Security Act and any amendments thereto.  
1536 The Board shall include in such plan:

1537 1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21,  
1538 placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing  
1539 agencies by the Department of Social Services or placed through state and local subsidized adoptions to  
1540 the extent permitted under federal statute;

1541 2. A provision for determining eligibility for benefits for medically needy individuals which  
1542 disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount  
1543 not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial  
1544 expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value  
1545 of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender  
1546 value of such policies has been excluded from countable resources and (ii) the amount of any other  
1547 revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of  
1548 meeting the individual's or his spouse's burial expenses;

1549 3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically  
1550 needy persons whose eligibility for medical assistance is required by federal law to be dependent on the  
1551 budget methodology for Aid to Families with Dependent Children, a home means the house and lot used  
1552 as the principal residence and all contiguous property. For all other persons, a home shall mean the  
1553 house and lot used as the principal residence, as well as all contiguous property, as long as the value of  
1554 the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the  
1555 definition of home as provided here is more restrictive than that provided in the state plan for medical  
1556 assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and  
1557 lot used as the principal residence and all contiguous property essential to the operation of the home  
1558 regardless of value;

1559 4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who  
1560 are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per  
1561 admission;

1562 5. A provision for deducting from an institutionalized recipient's income an amount for the  
1563 maintenance of the individual's spouse at home;

1564 6. A provision for payment of medical assistance on behalf of pregnant women which provides for  
1565 payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most  
1566 current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American  
1567 Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards  
1568 for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and  
1569 Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the  
1570 children which are within the time periods recommended by the attending physicians in accordance with  
1571 and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines  
1572 or Standards shall include any changes thereto within six months of the publication of such Guidelines  
1573 or Standards or any official amendment thereto;

1574 7. A provision for the payment for family planning services on behalf of women who were  
1575 Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such  
1576 family planning services shall begin with delivery and continue for a period of 24 months, if the woman  
1577 continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the  
1578 purposes of this section, family planning services shall not cover payment for abortion services and no  
1579 funds shall be used to perform, assist, encourage or make direct referrals for abortions;

1580 8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow  
1581 transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast  
1582 cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a  
1583 performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant.  
1584 Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

1585 9. A provision identifying entities approved by the Board to receive applications and to determine  
1586 eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate  
1587 contact information, including the best available address and telephone number, from each applicant for  
1588 medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant  
1589 for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et  
1590 seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance  
1591 directives and how the applicant may make an advance directive;

1592 10. A provision for breast reconstructive surgery following the medically necessary removal of a  
1593 breast for any medical reason. Breast reductions shall be covered, if prior authorization has been  
1594 obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

1595 11. A provision for payment of medical assistance for annual pap smears;

1596 12. A provision for payment of medical assistance services for prostheses following the medically

necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or *advanced practice registered nurse practitioner* and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. Such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services, as defined in § 38.2-3418.16. No health care provider who provides health care services through telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for providing telemedicine services;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, *advanced practice registered nurse*

1658 practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence  
1659 of hearing loss;

1660 22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer  
1661 Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer  
1662 when such women (i) have been screened for breast or cervical cancer under the Centers for Disease  
1663 Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under  
1664 Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including  
1665 treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under  
1666 creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise  
1667 eligible for medical assistance services under any mandatory categorically needy eligibility group; and  
1668 (v) have not attained age 65. This provision shall include an expedited eligibility determination for such  
1669 women;

1670 23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and  
1671 services delivery, of medical assistance services provided to medically indigent children pursuant to this  
1672 chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the  
1673 FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for  
1674 both programs;

1675 24. A provision, when authorized by and in compliance with federal law, to establish a public-private  
1676 long-term care partnership program between the Commonwealth of Virginia and private insurance  
1677 companies that shall be established through the filing of an amendment to the state plan for medical  
1678 assistance services by the Department of Medical Assistance Services. The purpose of the program shall  
1679 be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for  
1680 such services through encouraging the purchase of private long-term care insurance policies that have  
1681 been designated as qualified state long-term care insurance partnerships and may be used as the first  
1682 source of benefits for the participant's long-term care. Components of the program, including the  
1683 treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with  
1684 federal law and applicable federal guidelines;

1685 25. A provision for the payment of medical assistance for otherwise eligible pregnant women during  
1686 the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health  
1687 Insurance Program Reauthorization Act of 2009 (P.L. 111-3);

1688 26. A provision for the payment of medical assistance for medically necessary health care services  
1689 provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or  
1690 whether the patient is accompanied by a health care provider at the time such services are provided. No  
1691 health care provider who provides health care services through telemedicine services shall be required to  
1692 use proprietary technology or applications in order to be reimbursed for providing telemedicine services.

1693 For the purposes of this subdivision, "originating site" means any location where the patient is  
1694 located, including any medical care facility or office of a health care provider, the home of the patient,  
1695 the patient's place of employment, or any public or private primary or secondary school or  
1696 postsecondary institution of higher education at which the person to whom telemedicine services are  
1697 provided is located;

1698 27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a  
1699 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the  
1700 Department shall not impose any utilization controls or other forms of medical management limiting the  
1701 supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a  
1702 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe,  
1703 dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii)  
1704 exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of  
1705 practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal  
1706 contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones,  
1707 including medications containing estrogen or progesterone, that is self-administered, requires a  
1708 prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

1709 28. A provision for payment of medical assistance for remote patient monitoring services provided  
1710 via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex  
1711 infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three  
1712 months following the date of such surgery; and (v) patients with a chronic or acute health condition who  
1713 have had two or more hospitalizations or emergency department visits related to such health condition in  
1714 the previous 12 months when there is evidence that the use of remote patient monitoring is likely to  
1715 prevent readmission of such patient to a hospital or emergency department. For the purposes of this  
1716 subdivision, "remote patient monitoring services" means the use of digital technologies to collect  
1717 medical and other forms of health data from patients in one location and electronically transmit that  
1718 information securely to health care providers in a different location for analysis, interpretation, and  
1719 recommendations, and management of the patient. "Remote patient monitoring services" includes

monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing with or without digital image upload;

29. A provision for the payment of medical assistance for provider-to-provider consultations that is no more restrictive than, and is at least equal in amount, duration, and scope to, that available through the fee-for-service program; and

30. A provision for payment of the originating site fee to emergency medical services agencies for facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As used in this subdivision, "originating site" means any location where the patient is located, including any medical care facility or office of a health care provider, the home of the patient, the patient's place of employment, or any public or private primary or secondary school or postsecondary institution of higher education at which the person to whom telemedicine services are provided is located.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities With Deficiencies.

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider

1781 as required by 42 C.F.R. § 1002.212.

1782 4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement  
1783 or contract, with a provider who is or has been a principal in a professional or other corporation when  
1784 such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315,  
1785 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal  
1786 program pursuant to 42 C.F.R. Part 1002.

1787 5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection  
1788 E of § 32.1-162.13.

1789 For the purposes of this subsection, "provider" may refer to an individual or an entity.

1790 E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider  
1791 pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R.  
1792 § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative  
1793 Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of  
1794 the date of receipt of the notice.

1795 The Director may consider aggravating and mitigating factors including the nature and extent of any  
1796 adverse impact the agreement or contract denial or termination may have on the medical care provided  
1797 to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to  
1798 subsection D, the Director may determine the period of exclusion and may consider aggravating and  
1799 mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant  
1800 to 42 C.F.R. § 1002.215.

1801 F. When the services provided for by such plan are services which a marriage and family therapist,  
1802 clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed  
1803 to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist,  
1804 duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or  
1805 licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter  
1806 shall pay for covered services as provided in the state plan. The Board shall promulgate regulations  
1807 which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical  
1808 social workers, licensed professional counselors and licensed clinical nurse specialists at rates based  
1809 upon reasonable criteria, including the professional credentials required for licensure.

1810 G. The Board shall prepare and submit to the Secretary of the United States Department of Health  
1811 and Human Services such amendments to the state plan for medical assistance services as may be  
1812 permitted by federal law to establish a program of family assistance whereby children over the age of 18  
1813 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of  
1814 providing medical assistance under the plan to their parents.

1815 H. The Department of Medical Assistance Services shall:

1816 1. Include in its provider networks and all of its health maintenance organization contracts a  
1817 provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have  
1818 special needs and who are Medicaid eligible, including individuals who have been victims of child abuse  
1819 and neglect, for medically necessary assessment and treatment services, when such services are delivered  
1820 by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a  
1821 provider with comparable expertise, as determined by the Director.

1822 2. Amend the Medallion II waiver and its implementing regulations to develop and implement an  
1823 exception, with procedural requirements, to mandatory enrollment for certain children between birth and  
1824 age three certified by the Department of Behavioral Health and Developmental Services as eligible for  
1825 services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

1826 3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to  
1827 contractors and enrolled providers for the provision of health care services under Medicaid and the  
1828 Family Access to Medical Insurance Security Plan established under § 32.1-351.

1829 4. Require any managed care organization with which the Department enters into an agreement for  
1830 the provision of medical assistance services to include in any contract between the managed care  
1831 organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or  
1832 a representative of the pharmacy benefits manager from conducting spread pricing with regards to the  
1833 managed care organization's managed care plans. For the purposes of this subdivision:

1834 "Pharmacy benefits management" means the administration or management of prescription drug  
1835 benefits provided by a managed care organization for the benefit of covered individuals.

1836 "Pharmacy benefits manager" means a person that performs pharmacy benefits management.

1837 "Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits  
1838 manager charges a managed care plan a contracted price for prescription drugs, and the contracted price  
1839 for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly  
1840 pays the pharmacist or pharmacy for pharmacist services.

1841 I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible  
1842 recipients with special needs. The Board shall promulgate regulations regarding these special needs

patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

**§ 32.1-325. (Effective pursuant to Va. Const., Art. IV, § 13) Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.**

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast

1904 cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a  
1905 performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant.  
1906 Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;  
1907 9. A provision identifying entities approved by the Board to receive applications and to determine  
1908 eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate  
1909 contact information, including the best available address and telephone number, from each applicant for  
1910 medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant  
1911 for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et  
1912 seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance  
1913 directives and how the applicant may make an advance directive;  
1914 10. A provision for breast reconstructive surgery following the medically necessary removal of a  
1915 breast for any medical reason. Breast reductions shall be covered, if prior authorization has been  
1916 obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;  
1917 11. A provision for payment of medical assistance for annual pap smears;  
1918 12. A provision for payment of medical assistance services for prostheses following the medically  
1919 necessary complete or partial removal of a breast for any medical reason;  
1920 13. A provision for payment of medical assistance which provides for payment for 48 hours of  
1921 inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of  
1922 inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for  
1923 treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring  
1924 the provision of inpatient coverage where the attending physician in consultation with the patient  
1925 determines that a shorter period of hospital stay is appropriate;  
1926 14. A requirement that certificates of medical necessity for durable medical equipment and any  
1927 supporting verifiable documentation shall be signed, dated, and returned by the physician, physician  
1928 assistant, or *advanced practice registered nurse practitioner* and in the durable medical equipment  
1929 provider's possession within 60 days from the time the ordered durable medical equipment and supplies  
1930 are first furnished by the durable medical equipment provider;  
1931 15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons  
1932 age 40 and over who are at high risk for prostate cancer, according to the most recent published  
1933 guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal  
1934 examinations, all in accordance with American Cancer Society guidelines. For the purpose of this  
1935 subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate  
1936 specific antigen;  
1937 16. A provision for payment of medical assistance for low-dose screening mammograms for  
1938 determining the presence of occult breast cancer. Such coverage shall make available one screening  
1939 mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through  
1940 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an  
1941 X-ray examination of the breast using equipment dedicated specifically for mammography, including but  
1942 not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average  
1943 radiation exposure of less than one rad mid-breast, two views of each breast;  
1944 17. A provision, when in compliance with federal law and regulation and approved by the Centers  
1945 for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to  
1946 Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid  
1947 program and may be provided by school divisions, regardless of whether the student receiving care has  
1948 an individualized education program or whether the health care service is included in a student's  
1949 individualized education program. Such services shall include those covered under the state plan for  
1950 medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)  
1951 benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for  
1952 payment of medical assistance for health care services provided through telemedicine services, as  
1953 defined in § 38.2-3418.16. No health care provider who provides health care services through  
1954 telemedicine shall be required to use proprietary technology or applications in order to be reimbursed for  
1955 providing telemedicine services;  
1956 18. A provision for payment of medical assistance services for liver, heart and lung transplantation  
1957 procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or  
1958 surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and  
1959 application of the procedure in treatment of the specific condition have been clearly demonstrated to be  
1960 medically effective and not experimental or investigational; (iii) prior authorization by the Department of  
1961 Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific  
1962 transplant center where the surgery is proposed to be performed have been used by the transplant team  
1963 or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy  
1964 has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is  
1965 not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and



- 1966 restore a range of physical and social functioning in the activities of daily living;
- 1967 19. A provision for payment of medical assistance for colorectal cancer screening, specifically
- 1968 screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in
- 1969 appropriate circumstances radiologic imaging, in accordance with the most recently published
- 1970 recommendations established by the American College of Gastroenterology, in consultation with the
- 1971 American Cancer Society, for the ages, family histories, and frequencies referenced in such
- 1972 recommendations;
- 1973 20. A provision for payment of medical assistance for custom ocular prostheses;
- 1974 21. A provision for payment for medical assistance for infant hearing screenings and all necessary
- 1975 audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the
- 1976 United States Food and Drug Administration, and as recommended by the national Joint Committee on
- 1977 Infant Hearing in its most current position statement addressing early hearing detection and intervention
- 1978 programs. Such provision shall include payment for medical assistance for follow-up audiological
- 1979 examinations as recommended by a physician, physician assistant, *advanced practice registered nurse*
- 1980 ~~practitioner~~, or audiologist and performed by a licensed audiologist to confirm the existence or absence
- 1981 of hearing loss;
- 1982 22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer
- 1983 Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer
- 1984 when such women (i) have been screened for breast or cervical cancer under the Centers for Disease
- 1985 Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under
- 1986 Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including
- 1987 treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under
- 1988 creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise
- 1989 eligible for medical assistance services under any mandatory categorically needy eligibility group; and
- 1990 (v) have not attained age 65. This provision shall include an expedited eligibility determination for such
- 1991 women;
- 1992 23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and
- 1993 services delivery, of medical assistance services provided to medically indigent children pursuant to this
- 1994 chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the
- 1995 FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for
- 1996 both programs;
- 1997 24. A provision, when authorized by and in compliance with federal law, to establish a public-private
- 1998 long-term care partnership program between the Commonwealth of Virginia and private insurance
- 1999 companies that shall be established through the filing of an amendment to the state plan for medical
- 2000 assistance services by the Department of Medical Assistance Services. The purpose of the program shall
- 2001 be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for
- 2002 such services through encouraging the purchase of private long-term care insurance policies that have
- 2003 been designated as qualified state long-term care insurance partnerships and may be used as the first
- 2004 source of benefits for the participant's long-term care. Components of the program, including the
- 2005 treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with
- 2006 federal law and applicable federal guidelines;
- 2007 25. A provision for the payment of medical assistance for otherwise eligible pregnant women during
- 2008 the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health
- 2009 Insurance Program Reauthorization Act of 2009 (P.L. 111-3);
- 2010 26. A provision for the payment of medical assistance for medically necessary health care services
- 2011 provided through telemedicine services, as defined in § 38.2-3418.16, regardless of the originating site or
- 2012 whether the patient is accompanied by a health care provider at the time such services are provided. No
- 2013 health care provider who provides health care services through telemedicine services shall be required to
- 2014 use proprietary technology or applications in order to be reimbursed for providing telemedicine services.
- 2015 For the purposes of this subdivision, "originating site" means any location where the patient is
- 2016 located, including any medical care facility or office of a health care provider, the home of the patient,
- 2017 the patient's place of employment, or any public or private primary or secondary school or
- 2018 postsecondary institution of higher education at which the person to whom telemedicine services are
- 2019 provided is located;
- 2020 27. A provision for the payment of medical assistance for the dispensing or furnishing of up to a
- 2021 12-month supply of hormonal contraceptives at one time. Absent clinical contraindications, the
- 2022 Department shall not impose any utilization controls or other forms of medical management limiting the
- 2023 supply of hormonal contraceptives that may be dispensed or furnished to an amount less than a
- 2024 12-month supply. Nothing in this subdivision shall be construed to (i) require a provider to prescribe,
- 2025 dispense, or furnish a 12-month supply of self-administered hormonal contraceptives at one time or (ii)
- 2026 exclude coverage for hormonal contraceptives as prescribed by a prescriber, acting within his scope of

2027 practice, for reasons other than contraceptive purposes. As used in this subdivision, "hormonal  
2028 contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones,  
2029 including medications containing estrogen or progesterone, that is self-administered, requires a  
2030 prescription, and is approved by the U.S. Food and Drug Administration for such purpose;

2031 28. A provision for payment of medical assistance for remote patient monitoring services provided  
2032 via telemedicine, as defined in § 38.2-3418.16, for (i) high-risk pregnant persons; (ii) medically complex  
2033 infants and children; (iii) transplant patients; (iv) patients who have undergone surgery, for up to three  
2034 months following the date of such surgery; and (v) patients with a chronic or acute health condition who  
2035 have had two or more hospitalizations or emergency department visits related to such health condition in  
2036 the previous 12 months when there is evidence that the use of remote patient monitoring is likely to  
2037 prevent readmission of such patient to a hospital or emergency department. For the purposes of this  
2038 subdivision, "remote patient monitoring services" means the use of digital technologies to collect  
2039 medical and other forms of health data from patients in one location and electronically transmit that  
2040 information securely to health care providers in a different location for analysis, interpretation, and  
2041 recommendations, and management of the patient. "Remote patient monitoring services" includes  
2042 monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose,  
2043 and other patient physiological data, treatment adherence monitoring, and interactive videoconferencing  
2044 with or without digital image upload;

2045 29. A provision for the payment of medical assistance for provider-to-provider consultations that is  
2046 no more restrictive than, and is at least equal in amount, duration, and scope to, that available through  
2047 the fee-for-service program;

2048 30. A provision for payment of the originating site fee to emergency medical services agencies for  
2049 facilitating synchronous telehealth visits with a distant site provider delivered to a Medicaid member. As  
2050 used in this subdivision, "originating site" means any location where the patient is located, including any  
2051 medical care facility or office of a health care provider, the home of the patient, the patient's place of  
2052 employment, or any public or private primary or secondary school or postsecondary institution of higher  
2053 education at which the person to whom telemedicine services are provided is located; and

2054 31. A provision for the payment of medical assistance for targeted case management services for  
2055 individuals with severe traumatic brain injury.

2056 B. In preparing the plan, the Board shall:

2057 1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided  
2058 and that the health, safety, security, rights and welfare of patients are ensured.

2059 2. Initiate such cost containment or other measures as are set forth in the appropriation act.

2060 3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the  
2061 provisions of this chapter.

2062 4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations  
2063 pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social  
2064 services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact  
2065 analysis with local boards of social services prior to submission to the Registrar. The fiscal impact  
2066 analysis shall include the projected costs/savings to the local boards of social services to implement or  
2067 comply with such regulation and, where applicable, sources of potential funds to implement or comply  
2068 with such regulation.

2069 5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in  
2070 accordance with 42 C.F.R. § 488.400 et seq., Enforcement of Compliance for Long-Term Care Facilities  
2071 With Deficiencies.

2072 6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or  
2073 other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each  
2074 recipient of medical assistance services, and shall upon any changes in the required data elements set  
2075 forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective  
2076 information as may be required to electronically process a prescription claim.

2077 C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for  
2078 medical assistance or related services, the Board, subject to the approval of the Governor, may adopt,  
2079 regardless of any other provision of this chapter, such amendments to the state plan for medical  
2080 assistance services as may be necessary to conform such plan with amendments to the United States  
2081 Social Security Act or other relevant federal law and their implementing regulations or constructions of  
2082 these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health  
2083 and Human Services.

2084 In the event conforming amendments to the state plan for medical assistance services are adopted, the  
2085 Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter  
2086 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the  
2087 Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or  
2088 regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the

regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

4. Require any managed care organization with which the Department enters into an agreement for the provision of medical assistance services to include in any contract between the managed care organization and a pharmacy benefits manager provisions prohibiting the pharmacy benefits manager or a representative of the pharmacy benefits manager from conducting spread pricing with regards to the managed care organization's managed care plans. For the purposes of this subdivision:

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a managed care organization for the benefit of covered individuals.

"Pharmacy benefits manager" means a person that performs pharmacy benefits management.

"Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a managed care plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

K. When the services provided for by such plan are services related to initiation of treatment with or dispensing or administration of a vaccination by a pharmacist, pharmacy technician, or pharmacy intern in accordance with § 54.1-3303.1, the Department shall provide reimbursement for such service.

**§ 37.2-815. Commitment hearing for involuntary admission; examination required.**

A. Notwithstanding § 37.2-814, the district court judge or special justice shall require an examination of the person who is the subject of the hearing by a psychiatrist or a psychologist who is licensed in Virginia by the Board of Medicine or the Board of Psychology and is qualified in the diagnosis of mental illness or, if such a psychiatrist or psychologist is not available, a mental health professional who (i) is licensed in Virginia through the Department of Health Professions as a clinical social worker, professional counselor, marriage and family therapist, or psychiatric advanced practice registered nurse practitioner, or clinical nurse specialist; (ii) is qualified in the assessment of mental illness; and (iii) has completed a certification program approved by the Department. The examiner chosen shall be able to provide an independent clinical evaluation of the person and recommendations for his placement, care, and treatment. The examiner shall (a) not be related by blood or marriage to the person, (b) not be responsible for treating the person, (c) have no financial interest in the admission or treatment of the person, (d) have no investment interest in the facility detaining or admitting the person under this chapter, and (e) except for employees of state hospitals, the U.S. Department of Veterans Affairs, and community service boards, not be employed by the facility. For purposes of this section, the term "investment interest" shall be as defined in § 37.2-809.

B. The examination conducted pursuant to this section shall be a comprehensive evaluation of the person conducted in-person or, if that is not practicable, by two-way electronic video and audio communication system as authorized in § 37.2-804.1. Translation or interpreter services shall be provided during the evaluation where necessary. The examination shall consist of (i) a clinical assessment that includes a mental status examination; determination of current use of psychotropic and other medications; a medical and psychiatric history; a substance use, abuse, or dependency determination; and a determination of the likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) a substance abuse screening, when indicated; (iii) a risk assessment that includes an evaluation of the likelihood that, as a result of mental illness, the person will, in the near future, cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any; (iv) an assessment of the person's capacity to consent to treatment, including his ability to maintain and communicate choice, understand relevant information, and comprehend the situation and its consequences; (v) a review of the temporary detention facility's records for the person, including the treating physician's evaluation, any collateral information, reports of any laboratory or toxicology tests conducted, and all admission forms and nurses' notes; (vi) a discussion of treatment preferences expressed by the person or contained in a document provided by the person in support of recovery; (vii) an assessment of whether the person meets the criteria for an order authorizing discharge to mandatory outpatient treatment following a period of inpatient treatment pursuant to subsection c of § 37.2-817.01; (viii) an assessment of alternatives to involuntary inpatient

treatment; and (ix) recommendations for the placement, care, and treatment of the person.

C. All such examinations shall be conducted in private. The judge or special justice shall summons the examiner who shall certify that he has personally examined the person and state whether he has probable cause to believe that the person (i) has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and (ii) requires involuntary inpatient treatment. The judge or special justice shall not render any decision on the petition until the examiner has presented his report. The examiner may report orally at the hearing, but he shall provide a written report of his examination prior to the hearing. The examiner's written certification may be accepted into evidence unless objected to by the person or his attorney, in which case the examiner shall attend in person or by electronic communication. When the examiner attends the hearing in person or by electronic communication, the examiner shall not be excluded from the hearing pursuant to an order of sequestration of witnesses.

**§ 38.2-3407.11. Access to obstetrician-gynecologists.**

A. Each (i) insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, (ii) corporation providing individual or group accident and sickness subscription contracts, and (iii) health maintenance organization providing a health care plan for health care services, whose policies, contracts or plans, including any certificate or evidence of coverage issued in connection with such policies, contracts or plans, include coverage for obstetrical or gynecological services, shall permit any female of age 13 or older covered thereunder direct access, as provided in subsection B, to the health care services of a participating obstetrician-gynecologist (a) authorized to provide services under such policy, contract or plan and (b) selected by such female.

B. An annual examination, and routine health care services incident to and rendered during an annual visit, may be performed without prior authorization from the primary care physician. However, additional health care services may be provided subject to the following:

1. Consultation, which may be by telephone or electronically, with the primary care physician for follow-up care or subsequent visits;

2. Prior consultation and authorization by the primary care physician before the patient may be directed to another specialty provider; and

3. Prior authorization by the insurer, corporation, or health maintenance organization for proposed inpatient hospitalization or outpatient surgical procedures.

C. For the purpose of this section, "health care services" means the full scope of medically necessary services provided by the obstetrician-gynecologist in the care of or related to the female reproductive system and breasts and in performing annual screening and immunization for disorders and diseases in accordance with the most current published recommendations of the American College of Obstetricians and Gynecologists. The term includes services provided by ~~nurse practitioners, advanced practice registered nurses and~~ physician assistants, and ~~certified nurse midwives~~ in collaboration with the obstetrician-gynecologists providing care to individuals covered under any such policies, contracts or plans.

D. Nothing contained herein shall prohibit an insurer, corporation, or health maintenance organization from requiring a participating obstetrician-gynecologist to provide written notification to the covered female's primary care physician of any visit to such obstetrician-gynecologist. Such notification may include a description of the health care services rendered at the time of the visit.

E. Each insurer, corporation or health maintenance organization subject to the provisions of this section shall inform subscribers of the provisions of this section. Such notice shall be provided in writing.

F. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, renewed, or extended or at any time when any term of any such policy, contract, or plan is changed or any premium adjustment is made. The provisions of this section shall not apply to short-term travel or accident-only policies, or to short-term nonrenewable policies of not more than six months' duration.

G. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

**§ 38.2-3408. Policy providing for reimbursement for services that may be performed by certain practitioners other than physicians.**

A. If an accident and sickness insurance policy provides reimbursement for any service that may be legally performed by a person licensed in this Commonwealth as a chiropractor, optometrist, optician, professional counselor, psychologist, clinical social worker, podiatrist, physical therapist, chiropodist,

2273 clinical nurse specialist, audiologist, speech pathologist, certified nurse midwife or other *advanced*  
2274 *practice registered nurse practitioner*, marriage and family therapist, athletic trainer, or licensed  
2275 acupuncturist, reimbursement under the policy shall not be denied because the service is rendered by the  
2276 licensed practitioner, provided that, for services performed by an athletic trainer, such service is  
2277 performed in an office setting.

2278 B. If an accident and sickness insurance policy provides reimbursement for a service that may be  
2279 legally performed by a licensed pharmacist, reimbursement under the policy shall not be denied because  
2280 the service is rendered by the licensed pharmacist, provided that (i) the service is performed for an  
2281 insured for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, (ii) the  
2282 service is for the administration of vaccines for immunization, or (iii) the service is provided in  
2283 accordance with § 54.1-3303.1.

2284 C. This section shall not apply to Medicaid, or any state fund.

2285 **§ 38.2-4221. Services of certain practitioners other than physicians to be covered.**

2286 A. A nonstock corporation shall not fail or refuse, either directly or indirectly, to allow or to pay to  
2287 a subscriber for all or any part of the health services rendered by any doctor of podiatry, doctor of  
2288 chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist,  
2289 clinical social worker, clinical nurse specialist, audiologist, speech pathologist, certified nurse midwife or  
2290 other *advanced practice registered nurse practitioner*, marriage and family therapist, athletic trainer, or  
2291 licensed acupuncturist licensed to practice in Virginia, if the services rendered (i) are services provided  
2292 for by the subscription contract; (ii) are services which the doctor of podiatry, doctor of chiropody,  
2293 optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social  
2294 worker, clinical nurse specialist, audiologist, speech pathologist, certified nurse midwife or other  
2295 *advanced practice registered nurse practitioner*, marriage and family therapist, athletic trainer, or  
2296 licensed acupuncturist is licensed to render in this Commonwealth; and (iii) are, for any services  
2297 rendered by an athletic trainer, rendered in an office setting.

2298 B. If a subscription contract provides reimbursement for a service that may be legally performed by a  
2299 licensed pharmacist, reimbursement under the subscription contract by the nonstock corporation shall not  
2300 be denied because the service is rendered by the licensed pharmacist provided that (i) the service is  
2301 performed for a subscriber for a condition under the terms of a collaborative agreement, as defined in  
2302 § 54.1-3300, between a pharmacist and the physician with whom the subscriber is undergoing a course  
2303 of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding  
2304 the provisions of § 38.2-4209, the nonstock corporation may require the pharmacist, any pharmacy or  
2305 provider that may employ such pharmacist, or the collaborating physician to enter into a written  
2306 agreement with the nonstock corporation as a condition for reimbursement for such services. In addition,  
2307 reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection  
2308 shall not be subject to the provisions of § 38.2-4209.1.

2309 **§ 45.2-548. Qualification for team membership; direction of teams.**

2310 A. To qualify for membership in a mine rescue team, an applicant shall be an experienced miner and  
2311 shall pass a physical examination by a licensed physician, physician assistant, or licensed *advanced*  
2312 *practice registered nurse practitioner* at least annually. A record that such examination was taken shall  
2313 be kept on file by the operator who employs the team member and a copy shall be furnished to the  
2314 Director.

2315 B. All rescue or recovery work performed by mine rescue teams shall be under the jurisdiction of the  
2316 Department. The Department shall consult with company officials, representatives of MSHA, and  
2317 representatives of the miners and all shall be in agreement as far as possible on the proper procedure for  
2318 rescue and recovery; however, the Chief in his discretion may take full responsibility in directing such  
2319 work. Procedures for use of apparatus or equipment shall be guided by the manuals for the mine rescue  
2320 apparatus or auxiliary equipment.

2321 **§ 45.2-1137. Qualification for team membership; direction of teams.**

2322 A. To qualify for membership in a mine rescue team, an applicant shall (i) be an experienced miner;  
2323 (ii) be 50 years of age or younger; and (iii) pass a physical examination by a licensed physician,  
2324 licensed physician assistant, or licensed *advanced practice registered nurse practitioner* at least annually.  
2325 A record that such examination was taken shall be kept on file by the operator who employs the team  
2326 member and a copy shall be furnished to the Director.

2327 B. All rescue or recovery work performed by any mine rescue team shall be under the jurisdiction of  
2328 the Department. The Department shall consult with company officials, representatives of MSHA, and  
2329 representatives of the miners, and all shall be in agreement as far as possible on the proper procedure  
2330 for rescue and recovery; however, the Director in his discretion may take full responsibility in directing  
2331 such work. In every instance, procedures shall be guided by the mine rescue apparatus and auxiliary  
2332 equipment manuals.

2333 **§ 46.2-208. Records of Department; when open for inspection; release of privileged information.**

2334 A. The following information shall be considered privileged and unless otherwise provided for in this

title shall not be released except as provided in subsection B:

1. Personal information as defined in § 2.2-3801;
2. Driver information, defined as all data that relates to driver's license status and driver activity;
3. Special identification card information, defined as all data that relates to identification card status;

and

4. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data, but excluding crash data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical information included in personal information shall be released only to a physician, a physician assistant, or an advanced practice registered nurse practitioner in accordance with a proceeding under §§ 46.2-321 and 46.2-322.

2, 3. [Repealed.]

4. Upon the request of (i) the subject of the information, (ii) the parent of a minor who is the subject of the information, (iii) the guardian of the subject of the information, (iv) the authorized agent or representative of the subject of the information, or (v) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent of a minor who is the subject of the information, (c) the guardian of the subject of the information, (d) the authorized agent or representative of the subject of the information, or (e) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver, special identification card, or vehicle information. If the requester is requesting such information in the scope of his official business as counsel from a public defender's office or as counsel appointed by a court, such records shall be provided free of charge.

5. Upon the written request of any insurance carrier or surety, or authorized agent of either, the Commissioner shall furnish to such requester information in the record of any person subject to the provisions of this title. The transcript shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report filed pursuant to § 46.2-373. No such report of any conviction or crash shall be made after 60 months from the date of the conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. The response of the Commissioner under this subdivision shall not be admissible in evidence in any court proceedings.

6. Upon the written request of any business organization or its authorized agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. Upon the written request of any business organization or its authorized agent, the Commissioner shall provide vehicle information to the requester. Disclosures made under this subdivision shall not include any personal information, driver information, or special identification card information and shall not be subject to the limitations contained in subdivision 6.

8. Upon the written request of any motor vehicle rental or leasing company or its authorized agent, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information of any person subject to the provisions of this title. Such information shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the information was involved and a report of which was filed pursuant to § 46.2-373. No such information shall include any record of any conviction or crash more than 60 months after the date of such conviction or crash unless the Commissioner or court used the conviction or crash as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or crash pertaining thereto shall cease to be included in such information after 60 months from the date on which the driver's license or driving privilege was reinstated. The response of the Commissioner under this subdivision shall not be

2396 admissible in evidence in any court proceedings.

2397 9. Upon the request of any federal, state, or local governmental entity, local government group  
2398 self-insurance pool, law-enforcement officer, attorney for the Commonwealth, or court, or the authorized  
2399 agent of any of the foregoing, the Commissioner shall compare personal information supplied by the  
2400 requester with that contained in the Department's records and, when the information supplied by the  
2401 requester is different from that contained in the Department's records, provide the requester with correct  
2402 information as contained in the Department's records. The Commissioner shall also provide driver,  
2403 special identification card, and vehicle information as requested pursuant to this subdivision. The  
2404 Commissioner may release other appropriate information to the governmental entity upon request. Upon  
2405 request in accordance with this subdivision, the Commissioner shall furnish a certificate, under seal of  
2406 the Department, setting forth a distinguishing number or license plate of a motor vehicle, trailer, or  
2407 semitrailer, together with the name and address of its owner. The certificate shall be prima facie  
2408 evidence in any court in the Commonwealth of the ownership of the vehicle, trailer, or semitrailer to  
2409 which the distinguishing number or license plate has been assigned by the Department. However, the  
2410 Commissioner shall not release any photographs pursuant to this subdivision unless the requester  
2411 provides the depicted individual's name and other sufficient identifying information contained on such  
2412 individual's record. The information in this subdivision shall be provided free of charge.

2413 The Department shall release to a requester information that is required for a requester to carry out  
2414 the requester's official functions in accordance with this subdivision. If the requester has entered into an  
2415 agreement with the Department, such agreement shall be in a manner prescribed by the Department, and  
2416 such agreement shall contain the legal authority that authorizes the performance of the requester's  
2417 official functions and a description of how such information will be used to carry out such official  
2418 functions. If the Commissioner determines that sufficient authority has not been provided by the  
2419 requester to show that the purpose for which the information shall be used is one of the requester's  
2420 official functions, the Commissioner shall refuse to enter into any agreement. If the requester submits a  
2421 request for information in accordance with this subdivision without an existing agreement to receive the  
2422 information, the request shall be in a manner prescribed by the Department, and such request shall  
2423 contain the legal authority that authorizes the performance of the requester's official functions and a  
2424 description of how such information will be used to carry out such official functions. If the  
2425 Commissioner determines that sufficient authority has not been provided by the requester to show that  
2426 the purpose for which such information shall be used is one of the requester's official functions, the  
2427 Commissioner shall deny such request.

2428 Notwithstanding the provisions of this subdivision, the Department shall not disseminate to any  
2429 federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any  
2430 privileged information for any purposes related to civil immigration enforcement unless (i) the subject of  
2431 the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial  
2432 subpoena, or judicial warrant. When responding to a lawful judicial order, judicial subpoena, or judicial  
2433 warrant, the Department shall disclose only those records or information specifically requested. Within  
2434 three business days of receiving a request for information for the purpose of civil immigration  
2435 enforcement, the Commissioner shall send a notification to the individual about whom such information  
2436 was requested that such a request was made and the identity of the entity that made such request.

2437 The Department shall not enter into any agreement pursuant to subsection E with a requester  
2438 pursuant to this subdivision unless the requester certifies that the information obtained will not be used  
2439 for civil immigration purposes or knowingly disseminated to any third party for any purpose related to  
2440 civil immigration enforcement.

2441 10. Upon the request of the driver licensing authority in any foreign country, the Commissioner shall  
2442 provide whatever driver and vehicle information the requesting authority shall require to carry out its  
2443 official functions. The information shall be provided free of charge.

2444 11. a. For the purpose of obtaining information regarding noncommercial driver's license holders,  
2445 upon the written request of any employer, prospective employer, or authorized agent of either, and with  
2446 the written consent of the individual concerned, the Commissioner shall (i) compare personal  
2447 information supplied by the requester with that contained in the Department's records and, when the  
2448 information supplied by the requester is different from that contained in the Department's records,  
2449 provide the requester with correct information as contained in the Department's records and (ii) provide  
2450 the requester with driver information in the form of a transcript of an individual's record, including all  
2451 convictions, all crashes, any type of driver's license that the individual currently possesses, and all  
2452 driver's license suspensions, revocations, cancellations, or forfeiture, provided that such individual's  
2453 position or the position that the individual is being considered for involves the operation of a motor  
2454 vehicle.

2455 b. For the purpose of obtaining information regarding commercial driver's license holders, upon the  
2456 written request of any employer, prospective employer, or authorized agent of either, the Commissioner  
2457 shall (i) compare personal information supplied by the requester with that contained in the Department's



records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide the requester with driver information in the form of a transcript of such individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all driver's license suspensions, revocations, cancellations, forfeitures, or disqualifications, provided that such individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle.

12. Upon the written request of any member of a volunteer fire company or volunteer emergency medical services agency and with written consent of the individual concerned, or upon the request of an applicant for membership in a volunteer fire company or to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the individual's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency and the transcript is needed by the requester to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. Upon the written request of a Virginia affiliate of Big Brothers Big Sisters of America, a Virginia affiliate of Compeer, or the Virginia Council of the Girl Scouts of the USA, and with the consent of the individual who is the subject of the information and has applied to be a volunteer with the requester, or on the written request of a Virginia chapter of the American Red Cross, a Virginia chapter of the Civil Air Patrol, or Faith in Action, and with the consent of the individual who is the subject of the information and applied to be a volunteer vehicle operator with the requester, the Commissioner shall (i) compare personal information supplied by the requester with that contained in the Department's records and, when the information supplied by the requester is different from that contained in the Department's records, provide the requester with correct information as contained in the Department's records and (ii) provide driver information in the form of a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer or volunteer vehicle operator with the requester as provided in this subdivision.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide a transcript of the applicant's record, including all convictions, all crashes, any type of driver's license that the individual currently possesses, and all license suspensions, revocations, cancellations, or forfeitures. Such transcript shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15, 16. [Repealed.]

17. Upon the request of an attorney representing a person involved in a motor vehicle crash, the Commissioner shall provide the vehicle information for any vehicle involved in the crash and the name and address of the owner of any such vehicle.

18. Upon the request, in the course of business, of any authorized agent of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide (i) all vehicle information, the owner's name and address, descriptive data and title, registration, and vehicle activity data, as requested, or (ii) the driver name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth, provided that such request includes the driver's license number or address information of such driver. Use of such information shall be limited to use in connection with insurance claims investigation activities, antifraud activities, rating, or underwriting.

19. [Repealed.]

20. Upon the written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Virginia Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility, a traffic light photo-monitoring system acting

2519 on behalf of a government entity, or the Dulles Access Highway, or an authorized agent or employee of  
2520 a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government  
2521 entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection  
2522 M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released  
2523 pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having  
2524 failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the  
2525 Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and  
2526 registration data of the same vehicle.

2527 22-26. [Repealed.]

2528 27. Upon the written request of the executor or administrator of a deceased person's estate, the  
2529 Department shall, if the deceased person had been issued a driver's license or special identification card  
2530 by the Department, supply the requester with a hard copy image of any photograph of the deceased  
2531 person kept in the Department's records.

2532 28. [Repealed.]

2533 29. a. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of  
2534 a driver's license, learner's permit, or special identification card to the American Association of Motor  
2535 Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or another organization  
2536 approved by the Commissioner.

2537 b. Upon written agreement, the Commissioner may release minimum information as needed in the  
2538 Department's record through any American Association of Motor Vehicle Administrators service  
2539 program created for the purpose of the exchange of information to any business, government agency, or  
2540 authorized agent who would otherwise be authorized to receive the information requested pursuant to  
2541 this section.

2542 30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on  
2543 behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection  
2544 B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and  
2545 address of the owner of the vehicle having passed a stopped school bus and the vehicle information,  
2546 including all descriptive vehicle data and title and registration data for such vehicle.

2547 31. Upon the request of the operator of a photo speed monitoring device as defined in § 46.2-882.1  
2548 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to  
2549 subsection B of § 46.2-882.1. Information released pursuant to this subdivision shall be limited to the  
2550 name and address of the owner of the vehicle having committed a violation of § 46.2-873 or 46.2-878.1  
2551 and the vehicle information, including all descriptive vehicle data and title and registration data, for such  
2552 vehicle.

2553 32. Notwithstanding the provisions of this section other than subdivision 33, the Department shall not  
2554 release, except upon request by the subject of the information, the guardian of the subject of the  
2555 information, the parent of a minor who is the subject of the information, or the authorized agent of the  
2556 subject of the information, or pursuant to a court order, (i) proof documents submitted for the purpose  
2557 of obtaining a driving credential or a special identification card, (ii) the information in the Department's  
2558 records indicating the type of proof documentation that was provided, or (iii) applications relating to the  
2559 issuance of a driving credential or a special identification card. As used in this subdivision, "proof  
2560 document" means any document not originally created by the Department that is submitted to the  
2561 Department for the issuance of any driving credential or special identification card. "Proof document"  
2562 does not include any information contained on a driving credential or special identification card.

2563 33. Notwithstanding the provisions of this section, the Department may release the information in the  
2564 Department's records that it deems reasonable and necessary for the purpose of federal compliance  
2565 audits.

2566 C. Information disclosed or furnished shall be assessed a fee as specified in § 46.2-214, unless as  
2567 otherwise provided in this section.

2568 D. Upon the receipt of a completed application and payment of applicable processing fees, the  
2569 Commissioner may enter into an agreement with any governmental authority or business to exchange  
2570 information specified in this section by electronic or other means.

2571 E. The Department shall not release any privileged information pursuant to this title unless the  
2572 Department has entered into a written agreement authorizing such release. The Department shall require  
2573 the requesting entity to specify the purpose authorized pursuant to this title that forms the basis for the  
2574 request and provide the permissible purpose as defined under 18 U.S.C. § 2721(b). Privileged  
2575 information requested by an entity that has been altered or aggregated may be used only for the original  
2576 purposes specified in the written agreement consistent with this title. The requesting entity shall  
2577 disseminate privileged information only to third parties subject to the original purpose specified in the  
2578 written agreement consistent with this title. Any agreement that does not allow third-party distribution  
2579 shall include a statement that such distribution is prohibited. Such agreement may limit the scope of any  
2580 authorized distribution consistent with this title. Privileged information distributed to any third party

shall only be further distributed by such third party subject to the original purpose specified and consistent with this title, or unless such third party is the subject of the information, the parent of a minor who is the subject of the information, the guardian of the subject of the information, the authorized agent or representative of the subject of the information, or the owner of the vehicle that is the subject of the information.

Any agreement entered into pursuant to this subsection between the Department and the Department of State Police shall specify (i) that privileged information shall be distributed only to authorized personnel of an entity meeting the definition of a criminal justice agency as defined in § 9.1-101 and other comparable local, state, and federal criminal justice agencies and entities issued a Virginia S-Originating Agency Identification (S-ORI) status; (ii) that privileged information shall be accessed, used, and disseminated only for the administration of criminal justice as defined in § 9.1-101; and (iii) that no local, state, or federal government entity, through the Virginia Criminal Information Network (VCIN) or any other method of dissemination controlled by the Department of State Police, has access to information stored by the Department in violation of the protections contained in this section. The Department of State Police shall notify the Department prior to when a new entity is to be granted S-ORI status and provide a copy of the S-ORI application to the Department. The Department of State Police shall not allow any entity to access Department data through VCIN if the Department objects in writing to the entity obtaining such data.

The provisions of this subsection shall not apply to (a) requests for information made pursuant to subdivision B 4; (b) a request made by an entity authorized to receive privileged information pursuant to subsection B, provided that such request is made on a form provided by the Department, other than a written agreement, that requires the requester to certify that such entity is entitled to receive such information pursuant to this title, state the purpose authorized pursuant to subsection B that forms the basis for the request, explain why the information requested is necessary to accomplish the stated purpose, and certify that the information will be used only for the stated purpose and the information received shall not be disseminated to third parties unless there is authorization to do so; or (c) the release of information to a law-enforcement officer or agency during an emergency situation, provided that (1) the requesting entity is authorized to receive such information pursuant to subdivision B 9, (2) the timely release of such information is in the interest of public safety, and (3) the requesting entity completes the form required pursuant to clause (b) within 48 hours of the release of such information.

F. Any person that receives any privileged information that such person knows or has reason to know was received in violation of this title shall not disseminate any such information and shall notify the Department of the receipt of such privileged information.

G. The Department shall conduct audits annually based on a risk assessment to ensure that privileged information released by the Department pursuant to this title is being used as authorized by law and pursuant to the agreements entered into by the Department. If the Department finds that privileged information has been used in a manner contrary to law or the relevant agreement, the Department may revoke access.

H. Any request for privileged information by an authorized agent of a governmental entity shall be governed by the provisions of subdivision B 9.

**§ 46.2-322. Examination of licensee believed incompetent; suspension or restriction of license; license application to include questions as to physical or mental conditions of applicant; false answers; examination of applicant; physician's, advanced practice registered nurse's, or physician assistant's statement.**

A. If the Department has good cause to believe that a driver is incapacitated and therefore unable to drive a motor vehicle safely, after written notice of at least 15 days to the person, it may require him to submit to an examination to determine his fitness to drive a motor vehicle. If the driver so requests in writing, the Department shall give the Department's reasons for the examination, including the identity of all persons who have supplied information to the Department regarding the driver's fitness to drive a motor vehicle. However, the Department shall not supply the reasons or information if its source is a relative of the driver or a physician, a physician assistant, an advanced practice registered nurse practitioner, a pharmacist, or other licensed medical professional as defined in § 38.2-602 treating, or prescribing medications for, the driver.

B. As a part of its examination, the Department may require a physical examination by a licensed physician, licensed advanced practice registered nurse practitioner, or licensed physician assistant and a report on the results thereof. When it has completed its examination, the Department shall take whatever action may be appropriate and may suspend the license or privilege to drive a motor vehicle in the Commonwealth of the person or permit him to retain his license or privilege to drive a motor vehicle in the Commonwealth, or may issue a license subject to the restrictions authorized by § 46.2-329. Refusal or neglect of the person to submit to the examination or comply with restrictions imposed by the Department shall be grounds for suspension of his license or privilege to drive a motor vehicle in the

2642 Commonwealth.

2643 C. The Commissioner shall include, as a part of the application for an original driver's license, or  
2644 renewal thereof, questions as to the existence of physical or mental conditions that impair the ability of  
2645 the applicant to drive a motor vehicle safely. Any person knowingly giving a false answer to any such  
2646 question shall be guilty of a Class 2 misdemeanor. If the answer to any such question indicates the  
2647 existence of such condition, the Commissioner shall require an examination of the applicant by a  
2648 licensed physician, licensed physician assistant, or licensed *advanced practice registered nurse*  
2649 ~~practitioner~~ as a prerequisite to the issuance of the driver's license. The report of the examination shall  
2650 contain a statement that, in the opinion of the physician, physician assistant, or *advanced practice*  
2651 *registered nurse practitioner*, the applicant's physical or mental condition at the time of the examination  
2652 does or does not preclude his safe driving of motor vehicles.

2653 **§ 46.2-731. Disabled parking license plates; owners of vehicles specially equipped and used to**  
2654 **transport persons with disabilities; fees.**

2655 On receipt of an application, the Commissioner shall issue appropriately designed disabled parking  
2656 license plates to persons with physical disabilities that limit or impair their ability to walk or that create  
2657 a concern for his safety while walking or to the parents or legal guardians of such persons. The  
2658 Commissioner shall request that the application be accompanied by a certification signed by a licensed  
2659 physician, licensed podiatrist, licensed chiropractor, licensed *advanced practice registered nurse*  
2660 ~~practitioner~~, or licensed physician assistant that the applicant meets the definition of "person with a  
2661 disability that limits or impairs his ability to walk" contained in § 46.2-1240. The issuance of a disabled  
2662 parking license plate shall not preclude the issuance of a permanent removable windshield placard.

2663 On application of an organization, the Commissioner shall issue disabled parking license plates for  
2664 vehicles registered in the applicant's name if the vehicles are primarily used to transport persons with  
2665 disabilities. The application shall include a certification by the applicant, under criteria determined by  
2666 the Commissioner, that the vehicle is primarily used to transport persons with disabilities that limit or  
2667 impair their ability to walk, as defined in § 46.2-1240.

2668 The fee for the issuance of a disabled parking license plate under this section may not exceed the fee  
2669 charged for a similar license plate for the same class vehicle.

2670 **§ 46.2-739. Special license plates for certain disabled veterans; fees.**

2671 A. On receipt of an application, the Commissioner shall issue special license plates to applicants who  
2672 are veterans who have been certified by the U.S. Department of Veterans Affairs to have a  
2673 service-connected disability or unremarried surviving spouses of disabled veterans as defined in  
2674 § 46.2-100. Any special license plate issued to a disabled veteran pursuant to this subsection may be  
2675 transferred, upon his death, to his unremarried surviving spouse. These license plates shall be special  
2676 permanent red, white, and blue license plates bearing the letters "DV." The application shall be  
2677 accompanied by a certification from the U.S. Department of Veterans Affairs that the veteran's disability  
2678 is service-connected. License plates issued under this subsection shall not permit the vehicles upon  
2679 which they are displayed to use parking spaces reserved for persons with disabilities that limit or impair  
2680 their ability to walk.

2681 B. On receipt of an application, the Commissioner shall issue special DV disabled parking license  
2682 plates displaying the international symbol of access in the same size as the numbers and letters on the  
2683 plate and in a color that contrasts to the background to veterans who are also persons with disabilities  
2684 that limit or impair their ability to walk as defined in § 46.2-100. The Commissioner shall require that  
2685 such application be accompanied by a certification signed by a licensed physician, licensed podiatrist,  
2686 licensed chiropractor, licensed *advanced practice registered nurse practitioner*, or licensed physician  
2687 assistant to that effect. Special DV disabled parking license plates issued under this subsection shall  
2688 authorize the vehicles upon which they are displayed to use parking spaces reserved for persons with  
2689 disabilities that limit or impair their ability to walk.

2690 C. No annual registration fee, as prescribed in § 46.2-694, and no annual fee, as set forth in  
2691 subdivision B 3 of § 46.2-725, shall be required for any one motor vehicle owned and used personally  
2692 by any disabled veteran as defined in § 46.2-100 or the unremarried surviving spouse of such disabled  
2693 veteran, provided that such vehicle displays license plates issued under this section.

2694 D. The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued  
2695 under this section.

2696 **§ 46.2-1240. Definitions.**

2697 "Disabled parking sign" means any sign used to identify parking spaces for use by vehicles bearing  
2698 valid organizational, permanent, or temporary removable windshield placards, disabled parking license  
2699 plates, or disabled parking license plates issued under § 46.2-739. All disabled parking signs shall be  
2700 erected and maintained in accordance with signage requirements specified in § 36-99.11.

2701 "Organizational removable windshield placard" means a two-sided, hooked placard which includes on  
2702 each side: (i) the international symbol of access at least three inches in height, centered on the placard,  
2703 and shown in white on a green background; (ii) the name of the institution or organization; (iii) an

identification number; (iv) an expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the Department; (v) a misuse hotline number designated by the Department; (vi) a warning of the penalties for placard misuse; and (vii) the seal or identifying symbol of the issuing authority.

"Permanent removable windshield placard" means a two-sided, hooked placard which includes on each side: (i) the international symbol of access at least three inches in height, centered on the placard, and shown in white on a blue background; (ii) an identification number; (iii) an expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the Department; (iv) a misuse hotline number designated by the Department; (v) a warning of the penalties for placard misuse; and (vi) the seal or other identifying symbol of the issuing authority. All holders of permanent removable windshield placards shall be required to carry the Disabled Parking Placard Identification Card issued with the placard by the Department and present it to law-enforcement officials upon request.

"Person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking" means a person who, as determined by a licensed physician, podiatrist, or chiropractor: (i) cannot walk 200 feet without stopping to rest; (ii) cannot walk without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; (iii) is restricted by lung disease to such an extent that his forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or when at rest, his arterial oxygen tension is less than 60 millimeters of mercury on room air; (iv) uses portable oxygen; (v) has a cardiac condition to the extent that his functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; (vi) is severely limited in his ability to walk due to an arthritic, neurological, or orthopedic condition; (vii) has some other debilitating condition that, in the view of a licensed physician, podiatrist, or chiropractor, limits or impairs his ability to walk; (viii) has been diagnosed with a mental or developmental amentia or delay that impairs judgment including, but not limited to, an autism spectrum disorder; (ix) has been diagnosed with Alzheimer's disease or another form of dementia; (x) is legally blind or deaf; or (xi) has some other condition that, in the view of a licensed physician creates a safety concern while walking because of impaired judgment or other physical, developmental, or mental limitation. For the purposes of this definition, a determination of a disability by a podiatrist or chiropractor shall be limited to those conditions specified in items (i), (ii), (vi) or (vii) of this definition.

Any licensed physician, *advanced practice registered nurse practitioner*, physician assistant, podiatrist, or chiropractor who signs a certification that states that an applicant is disabled under clause (vii) of this definition shall specify, in a space provided on the certification form, the medical condition that limits or impairs the applicant's ability to walk. Any licensed physician, licensed *advanced practice registered nurse practitioner*, or licensed physician assistant who signs a certification that states that an applicant is disabled under clause (xi) of this definition shall specify, in a space provided on the certification form, the physical, developmental, or mental condition that creates the safety concern.

"Temporary removable windshield placard" means a two-sided, hooked placard which includes on each side: (i) the international symbol of access at least three inches in height, centered on the placard, and shown in white on a red background; (ii) an identification number; (iii) an expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the Department; (iv) a misuse hotline number; (v) a warning of the penalties for placard misuse; and (vi) the seal or other identifying symbol of the issuing authority.

#### **§ 46.2-1241. Issuance of disabled parking placards.**

A. Upon application of a person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking, the Commissioner shall issue a permanent removable windshield placard for use on a passenger car or pickup or panel truck. The Commissioner shall require that each original application be accompanied by a certification signed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed *advanced practice registered nurse practitioner*, or licensed physician assistant on forms prescribed by the Commissioner that the applicant meets the definition of "person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking" contained in § 46.2-1240.

1. The Commissioner shall provide for the renewal of such placards every five years. Applications for renewals may require the applicant to certify that his disability is a permanent disability, but renewal applications need not be accompanied by a physician's, a podiatrist's, a chiropractor's, *nurse practitioner's* or *an advanced practice registered nurse's*, or a physician assistant's certification of the applicant's disability. The Commissioner shall work in consultation with the Medical Advisory Board for the Department to develop a definition of "permanent disability" as used in this subdivision. Notwithstanding any contrary provision of this chapter, no physician's, podiatrist's, chiropractor's, *nurse practitioner's* or *advanced practice registered nurse's*, or physician assistant's certification of an applicant's

disability shall be required for the renewal of any disabled parking placard of an applicant to whom disabled parking license plates have been issued under § 46.2-731.

2. The Commissioner shall charge a reasonable fee for each placard, but no fee shall be charged any person exempted from fees in § 46.2-739.

3. The placards shall be of a design approved by the Commissioner pursuant to the specifications and definitions contained in § 46.2-1240.

B. Upon the application of a person with a disability that limits or impairs his ability to walk and whose disability is temporary, the Commissioner shall issue a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a certification signed by a licensed physician, *an advanced practice registered nurse practitioner*, a physician assistant, a podiatrist, or a chiropractor on forms prescribed by the Commissioner that the applicant meets the definition of "person with a condition that limits or impairs his ability to walk" contained in § 46.2-1240 and shall also include the period of time that the physician, podiatrist, or chiropractor determines the applicant will have the disability, not to exceed six months.

1. A licensed physician, *an advanced practice registered nurse practitioner*, a physician assistant, a podiatrist, or a chiropractor may certify up to 15 days in advance of an applicant's medical procedure that an applicant will meet the definition of "person with a condition that limits or impairs his ability to walk" and that the disability will be temporary. Any licensed physician, *advanced practice registered nurse practitioner*, physician assistant, podiatrist, or chiropractor who certifies an applicant's disability in advance of a medical procedure shall provide the period of time for which the physician, *advanced practice registered nurse practitioner*, physician assistant, podiatrist, or chiropractor has determined that the applicant will have the disability, not to exceed six months. The Commissioner will mail the temporary placard to the applicant.

2. The temporary removable windshield placard shall be valid for the period of time for which the physician, podiatrist, or chiropractor has determined that the applicant will have the disability, not to exceed six months from the date of issuance.

3. The Commissioner shall provide for a reasonable fee to be charged for the placard. The placards shall be of a design approved by the Commissioner pursuant to the specifications and definitions contained in § 46.2-1240.

C. On application, the Commissioner shall issue to hospitals, hospices, nursing homes, and other institutions and organizations meeting criteria determined by the Commissioner organizational removable windshield placards, as provided for in the foregoing provisions of this section, for use by volunteers when transporting disabled persons in passenger vehicles and pickup or panel trucks owned by such volunteers. The provisions of this section relating to other windshield placards issued under this section shall also apply, *mutatis mutandis*, to windshield placards issued to these institutions and organizations, except that windshield placards issued to institutions and agencies, in addition to their expiration date, shall bear the name of the institution or organization whose volunteers will be using the windshield placards rather than the name, age, and sex of the person to whom issued.

1. The Commissioner shall provide for the renewal of such placards every five years.

2. The placards shall be of a design approved by the Commissioner pursuant to the specifications and definitions contained in § 46.2-1240.

D. No person shall use or display an organizational removable windshield placard, permanent removable windshield placard or temporary removable windshield placard beyond its expiration date.

E. Organizational removable windshield placards, permanent removable windshield placards and temporary removable windshield placards shall be displayed in such a manner that they may be viewed from the front and rear of the vehicle and be hanging from the rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities that limit or impair their ability to walk. When there is no rearview mirror, the placard shall be displayed on the vehicle's dashboard. No placard shall be displayed from the rearview mirror while a vehicle is in motion.

#### **§ 53.1-22. Misdemeanant suspected of having contagious disease.**

Whenever any court shall have reason to believe that a person convicted by it of a misdemeanor who is sentenced to serve time in a local correctional facility is afflicted with any contagious or infectious disease dangerous to the public health, the court shall have such person examined by a licensed physician or licensed *advanced practice registered nurse practitioner*. If the examination reveals the person is afflicted with such disease, the court may commit the person directly to the Department.

#### **§ 54.1-2400.01:1. Surgery defined; who may perform surgery.**

A. For the purposes of this subtitle, except as used in Chapter 38 (§ 54.1-3800 et seq.) related to veterinary medicine, "surgery" means the structural alteration of the human body by the incision or cutting into of tissue for the purpose of diagnostic or therapeutic treatment of conditions or disease processes by any instrument causing localized alteration or transposition of live human tissue, but does not include the following: procedures for the removal of superficial foreign bodies from the human body, punctures, injections, dry needling, acupuncture, or removal of dead tissue. For the purposes of

this section, incision shall not mean the scraping or brushing of live tissue.

B. No person shall perform surgery unless he is (i) licensed by the Board of Medicine as a doctor of medicine, osteopathy, or podiatry; (ii) licensed by the Board of Dentistry as a doctor of dentistry; (iii) jointly licensed by the Boards of Medicine and Nursing as a *an advanced practice registered nurse practitioner*; (iv) a physician assistant acting under the supervision of a doctor of medicine, osteopathy, or podiatry; (v) a licensed midwife in the performance of episiotomies during childbirth; (vi) licensed by the Board of Optometry as an optometrist and certified to perform laser surgery pursuant to § 54.1-3225; or (vii) acting pursuant to the orders and under the appropriate supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry.

C. Nothing in this section shall be construed to restrict, limit, change, or expand the scope of practice in effect on January 1, 2012, of any profession licensed by any of the health regulatory boards within the Department of Health Professions.

**§ 54.1-2400.9. Reporting disabilities of drivers.**

Any (i) doctor of medicine, osteopathy, chiropractic, or podiatry; (ii) *advanced practice registered nurse practitioner*; (iii) physician assistant; (iv) optometrist; (v) physical therapist; or (vi) clinical psychologist who reports to the Department of Motor Vehicles the existence, or probable existence, of a mental or physical disability or infirmity of any person licensed to operate a motor vehicle which the reporting practitioner believes affects such person's ability to operate a motor vehicle safely shall not be subject to civil liability under § 32.1-127.1:03 resulting from such report or deemed to have violated the practitioner-patient privilege unless he has acted in bad faith or with malicious intent.

**§ 54.1-2701. Exemptions.**

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;
2. Apply to a *an advanced practice registered nurse practitioner* certified by the Board of Nursing and the Board of Medicine except that intraoral procedures shall be performed only under the direct supervision of a licensed dentist;
3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force, Public Health Service, or Department of Veterans Affairs;
4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;
5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia, (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least five days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the nonprofit organization on the dates and at the location filed with the Board. Clauses (iv), (v), and (vi) shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state. The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations; or

6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.

**§ 54.1-2729.2. Dialysis patient care technician; definition.**

"Dialysis patient care technician" or "dialysis care technician" means a person who has obtained certification from an organization approved by the Board of Health Professions to provide, under the supervision of a licensed practitioner of medicine or a registered nurse, direct care to patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility. Such direct care may include, but need not be limited to, the administration of heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers in accordance with the order of a licensed physician, *an advanced practice registered nurse practitioner*, or a physician assistant. However, a person who has completed a training program in dialysis patient care may engage in provisional practice to obtain practical experience in providing direct patient care under direct and immediate supervision in accordance with § 54.1-3408, until he has taken and received the results of any examination required by

2888 a certifying organization approved by the Board or for 24 months from the date of initial practice,  
2889 whichever occurs sooner.

2890 **§ 54.1-2900. Definitions.**

2891 As used in this chapter, unless the context requires a different meaning:

2892 "Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited  
2893 to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy,  
2894 chiropractic or podiatry who has successfully completed the requirements for licensure established by the  
2895 Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

2896 "*Advanced practice registered nurse*" means a certified nurse midwife, certified registered nurse  
2897 anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the Boards of  
2898 Medicine and Nursing pursuant to § 54.1-2957, has completed an advanced graduate-level education  
2899 program in a specialty category of nursing, and has passed a national certifying examination for that  
2900 specialty.

2901 "Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles  
2902 in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the  
2903 context of a chemical dependency treatment program.

2904 "Birth control" means contraceptive methods that are approved by the U.S. Food and Drug  
2905 Administration. "Birth control" shall not be considered abortion for the purposes of Title 18.2.

2906 "Board" means the Board of Medicine.

2907 "Certified nurse midwife" means an advanced practice registered nurse who is certified in the  
2908 specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a *an*  
2909 *advanced practice registered nurse practitioner* pursuant to § 54.1-2957.

2910 "Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified  
2911 in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a  
2912 *an advanced practice registered nurse practitioner* pursuant to § 54.1-2957, and who practices under the  
2913 supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice  
2914 agreement requirement described in § 54.1-2957.

2915 "Clinical nurse specialist" means an advanced practice registered nurse who is certified in the  
2916 specialty of clinical nurse specialist and who is jointly licensed by the Boards of Medicine and Nursing  
2917 as a *an advanced practice registered nurse practitioner* pursuant to § 54.1-2957.

2918 "Collaboration" means the communication and decision-making process among health care providers  
2919 who are members of a patient care team related to the treatment of a patient that includes the degree of  
2920 cooperation necessary to provide treatment and care of the patient and includes (i) communication of  
2921 data and information about the treatment and care of a patient, including the exchange of clinical  
2922 observations and assessments, and (ii) development of an appropriate plan of care, including decisions  
2923 regarding the health care provided, accessing and assessment of appropriate additional resources or  
2924 expertise, and arrangement of appropriate referrals, testing, or studies.

2925 "Consultation" means communicating data and information, exchanging clinical observations and  
2926 assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging  
2927 for referrals, testing, or studies.

2928 "Genetic counselor" means a person licensed by the Board to engage in the practice of genetic  
2929 counseling.

2930 "Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure  
2931 or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

2932 "Licensed certified midwife" means a person who is licensed as a certified midwife by the Boards of  
2933 Medicine and Nursing.

2934 "Medical malpractice judgment" means any final order of any court entering judgment against a  
2935 licensee of the Board that arises out of any tort action or breach of contract action for personal injuries  
2936 or wrongful death, based on health care or professional services rendered, or that should have been  
2937 rendered, by a health care provider, to a patient.

2938 "Medical malpractice settlement" means any written agreement and release entered into by or on  
2939 behalf of a licensee of the Board in response to a written claim for money damages that arises out of  
2940 any personal injuries or wrongful death, based on health care or professional services rendered, or that  
2941 should have been rendered, by a health care provider, to a patient.

2942 "Nurse practitioner" means an advanced practice registered nurse, *other than [ a nurse practitioner*  
2943 *an advanced practice registered nurse ] licensed by the Boards of Medicine and Nursing in the category*  
2944 *of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist*, who is  
2945 jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

2946 "Occupational therapy assistant" means an individual who has met the requirements of the Board for  
2947 licensure and who works under the supervision of a licensed occupational therapist to assist in the  
2948 practice of occupational therapy.

2949 "Patient care team" means a multidisciplinary team of health care providers actively functioning as a



unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Physician assistant" means a health care professional who has met the requirements of the Board for licensure as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy, or the administration or prescribing of any drugs, medicines, serums, or vaccines. "Practice of chiropractic" shall include (i) requesting, receiving, and reviewing a patient's medical and physical history, including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to the patient, and (ii) documenting in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and treatment provided to the patient by the doctor of chiropractic. "Practice of chiropractic" shall also include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of licensed certified midwifery" means the provision of primary health care for preadolescents, adolescents, and adults within the scope of practice of a certified midwife established in accordance with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, including (i) providing sexual and reproductive care and care during pregnancy and childbirth, postpartum care, and care for the newborn for up to 28 days following the birth of the child; (ii) prescribing of pharmacological and non-pharmacological therapies within the scope of the practice of

3011 midwifery; (iii) consulting or collaborating with or referring patients to such other health care providers  
3012 as may be appropriate for the care of the patients; and (iv) serving as an educator in the theory and  
3013 practice of midwifery.

3014 "Practice of medicine or osteopathic medicine" means the prevention, diagnosis, and treatment of  
3015 human physical or mental ailments, conditions, diseases, pain, or infirmities by any means or method.

3016 "Practice of occupational therapy" means the therapeutic use of occupations for habilitation and  
3017 rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the  
3018 evaluation, analysis, assessment, and delivery of education and training in basic and instrumental  
3019 activities of daily living; the design, fabrication, and application of orthoses (splints); the design,  
3020 selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance  
3021 functional performance; vocational evaluation and training; and consultation concerning the adaptation of  
3022 physical, sensory, and social environments.

3023 "Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical  
3024 conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical  
3025 and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of  
3026 the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the  
3027 metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility  
3028 accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of  
3029 lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and  
3030 ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital  
3031 or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The  
3032 Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within  
3033 the scope of practice of podiatry.

3034 "Practice of radiologic technology" means the application of ionizing radiation to human beings for  
3035 diagnostic or therapeutic purposes.

3036 "Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and  
3037 therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease  
3038 prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or  
3039 osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a  
3040 practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii)  
3041 observation and monitoring of signs and symptoms, general behavior, general physical response to  
3042 respiratory care treatment and diagnostic testing, including determination of whether such signs,  
3043 symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv)  
3044 implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting,  
3045 referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a  
3046 licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures,  
3047 pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care  
3048 may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed  
3049 appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or  
3050 osteopathic medicine, and shall be performed under qualified medical direction.

3051 "Practice of surgical assisting" means the performance of significant surgical tasks, including  
3052 manipulation of organs, suturing of tissue, placement of hemostatic agents, injection of local anesthetic,  
3053 harvesting of veins, implementation of devices, and other duties as directed by a licensed doctor of  
3054 medicine, osteopathy, or podiatry under the direct supervision of a licensed doctor of medicine,  
3055 osteopathy, or podiatry.

3056 "Qualified medical direction" means, in the context of the practice of respiratory care, having readily  
3057 accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who  
3058 has specialty training or experience in the management of acute and chronic respiratory disorders and  
3059 who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the  
3060 respiratory therapist.

3061 "Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy,  
3062 podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i)  
3063 performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic  
3064 or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises  
3065 responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from  
3066 unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive  
3067 chemical compounds under the direction of an authorized user as specified by regulations of the  
3068 Department of Health, or other procedures that contribute to any significant extent to the site or dosage  
3069 of ionizing radiation to which a patient is exposed.

3070 "Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist,  
3071 dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27  
3072 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic

procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

"Surgical assistant" means an individual who has met the requirements of the Board for licensure as a surgical assistant and who works under the direct supervision of a licensed doctor of medicine, osteopathy, or podiatry.

**§ 54.1-2901. Exceptions and exemptions generally.**

A. The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed *advanced practice registered nurse practitioner* from rendering care in accordance with the provisions of §§ 54.1-2957 and 54.1-2957.01, any *advanced practice registered nurse practitioner* licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife practicing pursuant to subsection H of § 54.1-2957, or any *advanced practice registered nurse practitioner* licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist practicing pursuant to subsection J of § 54.1-2957 when such services are authorized by regulations promulgated jointly by the Boards of Medicine and Nursing;

4. Any registered professional nurse, licensed *advanced practice registered nurse practitioner*, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine or osteopathy, ~~a~~ *an advanced practice registered nurse practitioner*, or a physician assistant;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by practitioners of the healing arts, if such activities or functions are authorized by and performed for such practitioners of the healing arts and responsibility for such activities or functions is assumed by such practitioners of the healing arts;

7. The rendering of medical advice or information through telecommunications from a physician licensed to practice medicine in Virginia or an adjoining state, or from a licensed *advanced practice registered nurse practitioner*, to emergency medical personnel acting in an emergency situation;

8. The domestic administration of family remedies;

9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in public or private health clubs and spas;

10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists or druggists;

11. The advertising or sale of commercial appliances or remedies;

12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant bracemaker or prosthetist for the purpose of having a three-dimensional record of the deformity, when such bracemaker or prosthetist has received a prescription from a licensed physician, licensed *advanced practice registered nurse practitioner*, or licensed physician assistant directing the fitting of such casts and such activities are conducted in conformity with the laws of Virginia;

13. Any person from the rendering of first aid or medical assistance in an emergency in the absence

3134 of a person licensed to practice medicine or osteopathy under the provisions of this chapter;  
3135 14. The practice of the religious tenets of any church in the ministration to the sick and suffering by  
3136 mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for  
3137 compensation;  
3138 15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally  
3139 licensed practitioners in this Commonwealth;  
3140 16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable  
3141 regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia  
3142 temporarily and such practitioner has been issued a temporary authorization by the Board from  
3143 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer  
3144 camp or in conjunction with patients who are participating in recreational activities, (ii) while  
3145 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any  
3146 site any health care services within the limits of his license, voluntarily and without compensation, to  
3147 any patient of any clinic which is organized in whole or in part for the delivery of health care services  
3148 without charge as provided in § 54.1-106;  
3149 17. The performance of the duties of any active duty health care provider in active service in the  
3150 army, navy, coast guard, marine corps, air force, or public health service of the United States at any  
3151 public or private health care facility while such individual is so commissioned or serving and in  
3152 accordance with his official military duties;  
3153 18. Any masseur, who publicly represents himself as such, from performing services within the scope  
3154 of his usual professional activities and in conformance with state law;  
3155 19. Any person from performing services in the lawful conduct of his particular profession or  
3156 business under state law;  
3157 20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;  
3158 21. Qualified emergency medical services personnel, when acting within the scope of their  
3159 certification, and licensed health care practitioners, when acting within their scope of practice, from  
3160 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of  
3161 Health regulations, or licensed health care practitioners from following any other written order of a  
3162 physician not to resuscitate a patient in the event of cardiac or respiratory arrest;  
3163 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force  
3164 rendering services voluntarily and without compensation while deemed to be licensed pursuant to  
3165 § 54.1-106;  
3166 23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture  
3167 detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent  
3168 certifying body, from administering auricular acupuncture treatment under the appropriate supervision of  
3169 a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;  
3170 24. Any employee of any assisted living facility who is certified in cardiopulmonary resuscitation  
3171 (CPR) acting in compliance with the patient's individualized service plan and with the written order of  
3172 the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;  
3173 25. Any person working as a health assistant under the direction of a licensed medical or osteopathic  
3174 doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional  
3175 facilities;  
3176 26. Any employee of a school board, authorized by a prescriber and trained in the administration of  
3177 insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents  
3178 as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a  
3179 student diagnosed as having diabetes and who requires insulin injections during the school day or for  
3180 whom glucagon has been prescribed for the emergency treatment of hypoglycemia;  
3181 27. Any practitioner of the healing arts or other profession regulated by the Board from rendering  
3182 free health care to an underserved population of Virginia who (i) does not regularly practice his  
3183 profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another  
3184 state, territory, district or possession of the United States, (iii) volunteers to provide free health care to  
3185 an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer,  
3186 nonprofit organization that sponsors the provision of health care to populations of underserved people,  
3187 (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v)  
3188 notifies the Board at least five business days prior to the voluntary provision of services of the dates and  
3189 location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be  
3190 valid, in compliance with the Board's regulations, during the limited period that such free health care is  
3191 made available through the volunteer, nonprofit organization on the dates and at the location filed with  
3192 the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts  
3193 whose license or certificate has been previously suspended or revoked, who has been convicted of a  
3194 felony or who is otherwise found to be in violation of applicable laws or regulations. However, the  
3195 Board shall allow a practitioner of the healing arts who meets the above criteria to provide volunteer

services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or *advanced practice registered nurse practitioner* from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or *advanced practice registered nurse practitioner* and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or *an advanced practice registered nurse practitioner*;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing;

31. Any person from performing state or federally funded health care tasks directed by the consumer, which are typically self-performed, for an individual who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks;

32. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state from engaging in the practice of that profession in Virginia with a patient who is being transported to or from a Virginia hospital for care;

33. Any doctor of medicine or osteopathy, physician assistant, or *advanced practice registered nurse practitioner* who would otherwise be subject to licensure by the Board who holds an active, unrestricted license in another state, the District of Columbia, or a United States territory or possession and who is in good standing with the applicable regulatory agency in that state, the District of Columbia, or that United States territory or possession who provides behavioral health services, as defined in § 37.2-100, from engaging in the practice of his profession and providing behavioral health services to a patient located in the Commonwealth in accordance with the standard of care when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the practitioner has previously established a practitioner-patient relationship with the patient and has performed an in-person evaluation of the patient within the previous year. A practitioner who provides behavioral health services to a patient located in the Commonwealth through use of telemedicine services pursuant to this subdivision may provide such services for a period of no more than one year from the date on which the practitioner began providing such services to such patient;

34. Any employee of a program licensed by the Department of Behavioral Health and Developmental Services who is certified in cardiopulmonary resuscitation from acting in compliance with a program participant's valid written order not to resuscitate issued in accordance with § 54.1-2987.1 if such valid written order not to resuscitate is included in the program participant's individualized service plan; or

35. Any practitioner of a profession regulated by the Board of Medicine who is licensed in another state or the District of Columbia and who is in good standing with the applicable regulatory agency in that state or the District of Columbia from engaging in the practice of that profession in the Commonwealth with a patient located in the Commonwealth when (i) such practice is for the purpose of providing continuity of care through the use of telemedicine services as defined in § 38.2-3418.16 and (ii) the patient is a current patient of the practitioner with whom the practitioner has previously established a practitioner-patient relationship and the practitioner has performed an in-person examination of the patient within the previous 12 months. For the purposes of this subdivision, if a patient is (a) an enrollee of a health maintenance organization that contracts with a multispecialty group of practitioners, each of whom is licensed by the Board of Medicine, and (b) a current patient of at least one practitioner who is a member of the multispecialty group with whom such practitioner has previously established a practitioner-patient relationship and of whom such practitioner has performed an in-person examination within the previous 12 months, the patient shall be deemed to be a current patient of each practitioner in the multispecialty group with whom each such practitioner has established a practitioner-patient relationship.

B. Notwithstanding any provision of law or regulation to the contrary, military medical personnel, as

defined in § 2.2-2001.4, while participating in a program established by the Department of Veterans Services pursuant to § 2.2-2001.4, may practice under the supervision of a licensed physician or podiatrist or the chief medical officer of an organization participating in such program, or his designee who is a licensee of the Board and supervising within his scope of practice.

**§ 54.1-2904. Biennial renewal of licenses; copies; fee; lapsed licenses; reinstatement; penalties.**

A. Every license granted under the provisions of this chapter shall be renewed biennially as prescribed by the Board. The Board shall send by mail or electronically notice for renewal of a license to every licensee. Failure to receive such notice shall not excuse any licensee from the requirements of renewal. The person receiving such notice shall furnish the information requested and submit the prescribed renewal fee to the Board. Copies of licenses may be obtained as provided in the Board's regulations.

B. Any licensee who allows his license to lapse by failing to renew the license or failing to meet professional activity requirements stipulated in the regulations may be reinstated by the Board upon submission of evidence satisfactory to the Board that he is prepared to resume practice in a competent manner and upon payment of the prescribed fee.

C. Any person practicing during the time his license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of this chapter.

D. When the Board of Health has issued an emergency order pursuant to § 32.1-13, the Board may waive (i) the requirement for submission of a fee for renewal or reinstatement of a license to practice medicine or osteopathic medicine or as a physician assistant or *an advanced practice registered nurse practitioner* and (ii) the requirement for submission of evidence satisfactory to the Board that a practitioner whose license was allowed to lapse for failure to meet professional activity requirements has satisfied such requirements and is prepared to resume practice in a competent manner for any person who held a valid, unrestricted, active license to practice such profession within the four-year period immediately prior to the application for renewal or reinstatement of such license.

**§ 54.1-2910.5. (Effective July 1, 2023) Pediatric sexual assault survivor services; requirements.**

Any health care practitioner licensed by the Board to practice medicine or osteopathy or as a physician assistant, or jointly licensed by the Board and the Board of Nursing as a *an advanced practice registered nurse practitioner*, who wishes to provide sexual assault survivor treatment services or sexual assault survivor transfer services, as defined in § 32.1-162.15:2, to pediatric survivors of sexual assault, as defined in § 32.1-162.15:2, shall comply with the provisions of Article 8 (§ 32.1-162.15:2 et seq.) of Chapter 5 of Title 32.1 applicable to pediatric medical care facilities.

**§ 54.1-2927. Applicants from other states without reciprocity; temporary licenses or certificates for certain practitioners of the healing arts.**

A. The Board, in its discretion, may issue certificates or licenses to applicants upon endorsement by boards or other appropriate authorities of other states or territories or the District of Columbia with which reciprocal relations have not been established if the credentials of such applicants are satisfactory and the examinations and passing grades required by such other boards are fully equal to those required by the Virginia Board.

The Board may issue certificates or licenses to applicants holding certificates from the national boards of their respective branches of the healing arts if their credentials, schools of graduation and national board examinations and results are acceptable to the Board. The Board shall promulgate regulations in order to carry out the provisions of this section.

The Board of Medicine shall prioritize applicants for licensure as a doctor of medicine or osteopathic medicine, a physician assistant, or a *an advanced practice registered nurse practitioner* from such states that are contiguous with the Commonwealth in processing their applications for licensure by endorsement through a streamlined process, with a final determination regarding qualification to be made within 20 days of the receipt of a completed application.

B. The Board may issue authorization to practice valid for a period not to exceed three months to a practitioner of the healing arts licensed or certified and in good standing with the applicable regulatory agency in the state, District of Columbia, or Canada where the practitioner resides when the practitioner is in Virginia temporarily to practice the healing arts (i) in a summer camp or in conjunction with patients who are participating in recreational activities, (ii) in continuing education programs, or (iii) by rendering at any site any health care services within the limits of his license or certificate, voluntarily and without compensation, to any patient of any clinic that is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106. A fee not to exceed \$25 may be charged by the Board for the issuance of authorization to practice pursuant to the provisions of this subsection.

**§ 54.1-2957. Licensure and practice of advanced practice registered nurses.**

A. As used in this section, "clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing

the licensure of ~~nurse practitioners~~ *advanced practice registered nurses*. It is unlawful for a person to practice as a *an advanced practice registered nurse practitioner* in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner ~~other than a certified nurse midwife, certified registered nurse anesthetist, or clinical nurse specialist or a nurse practitioner~~ who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A certified nurse midwife shall practice pursuant to subsection H. A ~~nurse practitioner who is licensed by the Boards of Medicine and Nursing~~ as a clinical nurse specialist shall practice pursuant to subsection J. A certified registered nurse anesthetist shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. ~~A An advanced practice registered nurse practitioner~~ who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among ~~nurse practitioners advanced practice registered nurses~~ and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a *an advanced practice registered nurse practitioner* be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and ~~nurse practitioners advanced practice registered nurses~~ working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the *advanced practice registered nurse practitioner* and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a *an advanced practice registered nurse practitioner* and provided to the Boards upon request. For ~~nurse practitioners advanced practice registered nurses~~ providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the ~~nurse practitioner's advanced practice registered nurse's~~ clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a *an advanced practice registered nurse practitioner* if the applicant has been licensed as a *an advanced practice registered nurse practitioner* under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of ~~nurse practitioners advanced practice registered nurses~~ in the Commonwealth. ~~A An advanced practice registered nurse practitioner~~ to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to ~~nurse practitioners advanced practice registered nurses~~.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a *an advanced practice registered nurse practitioner* is unable to enter into a new practice agreement with another patient care team physician, the *advanced practice registered nurse practitioner* may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such *advanced practice registered nurse practitioner* may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided that the *advanced practice registered nurse practitioner* continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the *advanced practice registered nurse practitioner* to continue practice under this

3380 subsection for another 60 days, provided *that* the *advanced practice registered nurse practitioner*  
3381 provides evidence of efforts made to secure another patient care team physician and of access to  
3382 physician input.

3383 H. Every certified nurse midwife shall practice in accordance with regulations adopted by the Boards  
3384 and consistent with the Standards for the Practice of Midwifery set by the American College of  
3385 Nurse-Midwives governing such practice. A certified nurse midwife who has practiced fewer than 1,000  
3386 hours shall practice in consultation with a certified nurse midwife who has practiced for at least two  
3387 years prior to entering into the practice agreement or a licensed physician, in accordance with a practice  
3388 agreement. Such practice agreement shall address the availability of the certified nurse midwife who has  
3389 practiced for at least two years prior to entering into the practice agreement or the licensed physician for  
3390 routine and urgent consultation on patient care. Evidence of the practice agreement shall be maintained  
3391 by the certified nurse midwife and provided to the Boards upon request. A certified nurse midwife who  
3392 has completed 1,000 hours of practice as a certified nurse midwife may practice without a practice  
3393 agreement upon receipt by the certified nurse midwife of an attestation from the certified nurse midwife  
3394 who has practiced for at least two years prior to entering into the practice agreement or the licensed  
3395 physician with whom the certified nurse midwife has entered into a practice agreement stating (i) that  
3396 such certified nurse midwife or licensed physician has provided consultation to the certified nurse  
3397 midwife pursuant to a practice agreement meeting the requirements of this section and (ii) the period of  
3398 time for which such certified nurse midwife or licensed physician practiced in collaboration and  
3399 consultation with the certified nurse midwife pursuant to the practice agreement. A certified nurse  
3400 midwife authorized to practice without a practice agreement shall consult and collaborate with and refer  
3401 patients to such other health care providers as may be appropriate for the care of the patient.

3402 I. A nurse practitioner, ~~other than a nurse practitioner licensed by the Boards of Medicine and~~  
3403 ~~Nursing in the category of certified nurse midwife, certified registered nurse anesthetist, or clinical nurse~~  
3404 ~~specialist, who has completed the equivalent of at least five years of full-time clinical experience as a~~  
3405 ~~licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which~~  
3406 ~~he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse~~  
3407 ~~practitioner of an attestation from the patient care team physician stating (i) that the patient care team~~  
3408 ~~physician has served as a patient care team physician on a patient care team with the nurse practitioner~~  
3409 ~~pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that~~  
3410 ~~while a party to such practice agreement, the patient care team physician routinely practiced with a~~  
3411 ~~patient population and in a practice area included within the category for which the nurse practitioner~~  
3412 ~~was certified and licensed; and (iii) the period of time for which the patient care team physician~~  
3413 ~~practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be~~  
3414 ~~submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation~~  
3415 ~~and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall~~  
3416 ~~issue to the nurse practitioner a new license that includes a designation indicating that the nurse~~  
3417 ~~practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner~~  
3418 ~~is unable to obtain the attestation required by this subsection, the Boards may accept other evidence~~  
3419 ~~demonstrating that the applicant has met the requirements of this subsection in accordance with~~  
3420 ~~regulations adopted by the Boards.~~

3421 A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection  
3422 shall (a) only practice within the scope of his clinical and professional training and limits of his  
3423 knowledge and experience and consistent with the applicable standards of care, (b) consult and  
3424 collaborate with other health care providers based on the clinical conditions of the patient to whom  
3425 health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies  
3426 to physicians or other appropriate health care providers.

3427 J. A *clinical nurse practitioner specialist* licensed by the Boards of Medicine and Nursing ~~in the~~  
3428 ~~category of clinical nurse specialist~~ who does not prescribe controlled substances or devices may  
3429 practice in the practice category in which he is certified and licensed without a written or electronic  
3430 practice agreement. Such *clinical nurse practitioner specialist* shall (i) only practice within the scope of  
3431 his clinical and professional training and limits of his knowledge and experience and consistent with the  
3432 applicable standards of care, (ii) consult and collaborate with other health care providers based on the  
3433 clinical condition of the patient to whom health care is provided, and (iii) establish a plan for referral of  
3434 complex medical cases and emergencies to physicians or other appropriate health care providers.

3435 A *clinical nurse practitioner specialist* licensed by the Boards ~~in the category of clinical nurse~~  
3436 ~~specialist~~ who prescribes controlled substances or devices shall practice in consultation with a licensed  
3437 physician in accordance with a practice agreement between the *clinical nurse practitioner specialist* and  
3438 the licensed physician. Such practice agreement shall address the availability of the physician for routine  
3439 and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a  
3440 *clinical nurse practitioner specialist* and provided to the Boards upon request. The practice of clinical  
3441 nurse specialists shall be consistent with the standards of care for the profession and with applicable



laws and regulations.

**§ 54.1-2957.001. Restricted volunteer license for advanced practice registered nurses.**

A. The Board of Medicine and the Board of Nursing may jointly issue a restricted volunteer license to ~~a an advanced practice registered nurse practitioner~~ who (i) within the past five years held an unrestricted license as ~~a an advanced practice registered nurse practitioner~~ in the Commonwealth or another state that was in good standing at the time the license expired or became inactive and (ii) holds an active license or a volunteer restricted license as a registered nurse or a multistate licensure privilege. ~~Nurse practitioners~~ *Advanced practice registered nurses* holding a restricted volunteer license issued pursuant to this section shall only practice in public health or community free clinics that provide services to underserved populations.

B. An applicant for a restricted volunteer license shall submit an application on a form provided by the Boards of Medicine and Nursing and attest that he will not receive remuneration directly or indirectly for providing nursing services.

C. ~~A An advanced practice registered nurse practitioner~~ holding a restricted volunteer license pursuant to this section may obtain prescriptive authority in accordance with the provisions of § 54.1-2957.01.

D. ~~A An advanced practice registered nurse practitioner~~ holding a restricted volunteer license pursuant to this section shall not be required to complete continuing competency requirements for the first renewal of such license. For subsequent renewals, ~~a an advanced practice registered nurse practitioner~~ holding a restricted volunteer license shall be required to complete the continuing competency requirements required for renewal of an active license.

E. A restricted volunteer license issued pursuant to this section may be renewed biennially in accordance with the renewal schedule established in regulations jointly promulgated by the Boards of Medicine and Nursing.

F. The application and biennial renewal fee for restricted volunteer licenses pursuant to this section shall be one-half of the fee for an active license.

G. ~~A An advanced practice registered nurse practitioner~~ holding a restricted volunteer license issued pursuant to this section shall be subject to the provisions of this chapter and all regulations applicable to ~~nurse practitioners~~ *advanced practice registered nurses* practicing in the Commonwealth.

**§ 54.1-2957.01. Prescription of certain controlled substances and devices by licensed advanced practice registered nurses.**

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed *advanced practice registered nurse* ~~practitioner~~ shall have the authority to prescribe Schedule II through Schedule VI controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.).

B. ~~A An advanced practice registered nurse practitioner~~ who does not meet the requirements for practice without a written or electronic practice agreement set forth in subsection I of § 54.1-2957 shall prescribe controlled substances or devices only if such prescribing is authorized by a written or electronic practice agreement entered into by the *advanced practice registered nurse* ~~practitioner~~ and a patient care team physician or, if the *advanced practice registered nurse* ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the *advanced practice registered nurse* ~~practitioner~~ and a licensed physician. Such *advanced practice registered nurse* ~~practitioner~~ shall provide to the Boards of Medicine and Nursing such evidence as the Boards may jointly require that the *advanced practice registered nurse* ~~practitioner~~ has entered into and is, at the time of writing a prescription, a party to a written or electronic practice agreement with a patient care team physician, or, if the *advanced practice registered nurse* ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician, that clearly states the prescriptive practices of the *advanced practice registered nurse* ~~practitioner~~. Such written or electronic practice agreements shall include the controlled substances the *advanced practice registered nurse* ~~practitioner~~ is or is not authorized to prescribe and may restrict such prescriptive authority as described in the practice agreement. Evidence of a practice agreement shall be maintained by a *an advanced practice registered nurse* ~~practitioner~~ pursuant to § 54.1-2957. Practice agreements authorizing ~~a an advanced practice registered nurse practitioner~~ to prescribe controlled substances or devices pursuant to this section either shall be signed by the patient care team physician, or, if the *advanced practice registered nurse* ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, a licensed physician, or shall clearly state the name of the patient care team physician, or, if the *advanced practice registered nurse* ~~practitioner~~ is licensed by the Boards of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician, who has entered into the practice agreement with the *advanced practice registered nurse* ~~practitioner~~.

It shall be unlawful for ~~a an advanced practice registered nurse practitioner~~ to prescribe controlled substances or devices pursuant to this section unless (i) such prescription is authorized by the written or

3503 electronic practice agreement or (ii) the *advanced practice registered nurse practitioner* is authorized to  
3504 practice without a written or electronic practice agreement pursuant to subsection I of § 54.1-2957.

3505 C. The Boards of Medicine and Nursing shall promulgate regulations governing the prescriptive  
3506 authority of ~~nurse practitioners~~ *advanced practice registered nurses* as are deemed reasonable and  
3507 necessary to ensure an appropriate standard of care for patients. Such regulations shall include  
3508 requirements as may be necessary to ensure continued *advanced practice registered nurse practitioner*  
3509 competency, which may include continuing education, testing, or any other requirement, and shall  
3510 address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of  
3511 new pharmaceuticals, and appropriate communication with patients.

3512 D. This section shall not limit the functions and procedures of certified registered nurse anesthetists  
3513 or of any ~~nurse practitioners~~ *advanced practice registered nurses* which are otherwise authorized by law  
3514 or regulation.

3515 E. The following restrictions shall apply to any *advanced practice registered nurse practitioner*  
3516 authorized to prescribe drugs and devices pursuant to this section:

3517 1. The *advanced practice registered nurse practitioner* shall disclose to the patient at the initial  
3518 encounter that he is a licensed *advanced practice registered nurse practitioner*. Any party to a practice  
3519 agreement shall disclose, upon request of a patient or his legal representative, the name of the patient  
3520 care team physician, or, if the *advanced practice registered nurse practitioner* is licensed by the Boards  
3521 of Medicine and Nursing in the category of clinical nurse specialist, the name of the licensed physician,  
3522 and information regarding how to contact the patient care team physician or licensed physician.

3523 2. Physicians shall not serve as a patient care team physician on a patient care team or enter into a  
3524 practice agreement with more than six ~~nurse practitioners~~ *advanced practice registered nurses* at any one  
3525 time, except that a physician may serve as a patient care team physician on a patient care team with up  
3526 to 10 ~~nurse practitioners~~ *advanced practice registered nurses* licensed in the category of  
3527 psychiatric-mental health *advanced practice registered nurse practitioner*.

3528 F. This section shall not prohibit a licensed *advanced practice registered nurse practitioner* from  
3529 administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or  
3530 from receiving and dispensing manufacturers' professional samples of controlled substances in  
3531 compliance with the provisions of this section.

3532 G. Notwithstanding any provision of law or regulation to the contrary, a *certified nurse practitioner*  
3533 *midwife* licensed by the Boards of Medicine and Nursing in the category of *certified nurse midwife* as  
3534 such and holding a license for prescriptive authority may prescribe Schedules II through VI controlled  
3535 substances. However, if the *certified nurse practitioner midwife* licensed by the Boards of Medicine and  
3536 Nursing in the category of certified nurse midwife is required, pursuant to subsection H of § 54.1-2957,  
3537 to practice pursuant to a practice agreement, such prescribing shall also be in accordance with any  
3538 prescriptive authority included in such practice agreement.

3539 H. Notwithstanding any provision of law or regulation to the contrary, a *certified registered nurse*  
3540 *practitioner anesthetist* licensed by the Boards of Medicine and Nursing as a *certified registered nurse*  
3541 *anesthetist* such shall have the authority to prescribe Schedule II through Schedule VI controlled  
3542 substances and devices in accordance with the requirements for practice set forth in subsection C of  
3543 § 54.1-2957 to a patient requiring anesthesia, as part of the periprocedural care of such patient. As used  
3544 in this subsection, "periprocedural" means the period beginning prior to a procedure and ending at the  
3545 time the patient is discharged.

3546 **§ 54.1-2957.02. When advanced practice registered nurse signature accepted.**

3547 Whenever any law or regulation requires a signature, certification, stamp, verification, affidavit or  
3548 endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification,  
3549 affidavit or endorsement by a *an advanced practice registered nurse practitioner*.

3550 **§ 54.1-2957.03. Certified nurse midwives; required disclosures; liability.**

3551 A. As used in this section, "birthing center" means a facility outside a hospital that provides  
3552 maternity services.

3553 B. A certified nurse midwife who provides health care services to a patient outside of a hospital or  
3554 birthing center shall disclose to that patient, when appropriate, information on health risks associated  
3555 with births outside of a hospital or birthing center, including but not limited to risks associated with  
3556 vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk  
3557 pregnancies, and births involving multiple gestation.

3558 C. A certified nurse midwife who provides health care to a patient shall be liable for the midwife's  
3559 negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by  
3560 law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife  
3561 regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician  
3562 assistant, (iii) *advanced practice registered nurse practitioner*, (iv) prehospital emergency medical  
3563 personnel, or (v) hospital as defined in § 32.1-123, or any employee of, person providing services  
3564 pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health

care services to a patient as a result of a certified nurse midwife's negligent, grossly negligent, or willful and wanton acts or omissions, shall be immune from liability for acts or omissions constituting ordinary negligence.

**§ 54.1-2957.04. Licensure as a licensed certified midwife; practice as a licensed certified midwife; use of title; required disclosures.**

A. It shall be unlawful for any person to practice or to hold himself out as practicing as a licensed certified midwife or use in connection with his name the words "Licensed Certified Midwife" unless he holds a license as such issued jointly by the Boards of Medicine and Nursing.

B. The Boards of Medicine and Nursing shall jointly adopt regulations for the licensure of licensed certified midwives, which shall include criteria for licensure and renewal of a license as a certified midwife that shall include a requirement that the applicant provide evidence satisfactory to the Boards of current certification as a certified midwife by the American Midwifery Certification Board and that shall be consistent with the requirements for certification as a certified midwife established by the American Midwifery Certification Board.

C. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a licensed certified midwife if the applicant has been licensed as a certified midwife under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure as a licensed certified midwife in the Commonwealth.

D. Licensed certified midwives shall practice in consultation with a licensed physician in accordance with a practice agreement between the licensed certified midwife and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by the licensed certified midwife and provided to the Board upon request. The Board shall adopt regulations for the practice of licensed certified midwives, which shall be in accordance with regulations jointly adopted by the Boards of Medicine and Nursing, which shall be consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives governing the practice of midwifery.

E. Notwithstanding any provision of law or regulation to the contrary, a licensed certified midwife may prescribe Schedules II through VI controlled substances in accordance with regulations of the Boards of Medicine and Nursing.

F. A licensed certified midwife who provides health care services to a patient outside of a hospital or birthing center shall disclose to that patient, when appropriate, information on health risks associated with births outside of a hospital or birthing center, including but not limited to risks associated with vaginal births after a prior cesarean section, breech births, births by women experiencing high-risk pregnancies, and births involving multiple gestation. As used in this subsection, "birthing center" shall have the same meaning as in § 54.1-2957.03.

G. A licensed certified midwife who provides health care to a patient shall be liable for the midwife's negligent, grossly negligent, or willful and wanton acts or omissions. Except as otherwise provided by law, any (i) doctor of medicine or osteopathy who did not collaborate or consult with the midwife regarding the patient and who has not previously treated the patient for this pregnancy, (ii) physician assistant, (iii) *advanced practice registered nurse practitioner*, (iv) prehospital emergency medical personnel, or (v) hospital as defined in § 32.1-123, or any employee of, person providing services pursuant to a contract with, or agent of such hospital, that provides screening and stabilization health care services to a patient as a result of a licensed certified midwife's negligent, grossly negligent, or willful and wanton acts or omissions shall be immune from liability for acts or omissions constituting ordinary negligence.

**§ 54.1-2970.1. Individual incapable of making informed decision; procedure for physical evidence recovery kit examination; consent by minors.**

A. A licensed physician, a physician assistant, an *advanced practice registered nurse practitioner*, or a registered nurse may perform a physical evidence recovery kit examination for a person who is believed to be the victim of a sexual assault and who is incapable of making an informed decision regarding consent to such examination when:

1. There is a need to conduct the examination before the victim is likely to be able to make an informed decision in order to preserve physical evidence of the alleged sexual assault from degradation;

2. No legally authorized representative or other person authorized to consent to medical treatment on the individual's behalf is reasonably available to provide consent within the time necessary to preserve physical evidence of the alleged sexual assault; and

3. A capacity reviewer, as defined in § 54.1-2982, provides written certification that, based upon a personal examination of the individual, the individual is incapable of making an informed decision regarding the physical evidence recovery kit examination and that, given the totality of the circumstances, the examination should be performed. The capacity reviewer who provides such written certification shall not be otherwise currently involved in the treatment of the person assessed, unless an

independent capacity reviewer is not reasonably available.

A1. For purposes of this section, if a parent or guardian of a minor refuses to consent to a physical evidence recovery kit examination of the minor, the minor may consent.

B. Any physical evidence recovery kit examination performed pursuant to this section shall be performed in accordance with the requirements of §§ 19.2-11.2 and 19.2-165.1 and shall protect the alleged victim's identity.

C. A licensed physician, a physician assistant, an advanced practice registered nurse practitioner, or a registered nurse who exercises due care under the provisions of this act shall not be liable for any act or omission related to performance of an examination in accordance with this section.

**§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses', licensed practical nurses', physician assistants', or advanced practice registered nurses' authority to pronounce death under certain circumstances.**

A. As used in this section, "autonomous nurse practitioner" means a nurse practitioner who is authorized to practice without a practice agreement pursuant to subsection I of § 54.1-2957.

B. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in the Commonwealth or autonomous nurse practitioner, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition that directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of such physician or autonomous nurse practitioner, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed to practice medicine in the Commonwealth and board-eligible or board-certified in the field of neurology, neurosurgery, or critical care medicine, when based on the ordinary standards of medical practice, there is irreversible cessation of all functions of the entire brain, including the brain stem, and, in the opinion of such physician, based on the ordinary standards of medical practice and considering the irreversible cessation of all functions of the entire brain, including the brain stem, and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such functions, and, in such event, death shall be deemed to have occurred at the time when all such functions have ceased.

C. A registered nurse, a physician assistant, or an advanced practice registered nurse practitioner who is not an autonomous nurse practitioner may pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician assistant or advanced practice registered nurse practitioner who is not an autonomous nurse practitioner works at (a) a home care organization as defined in § 32.1-162.7, (b) a hospice as defined in § 32.1-162.1, (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals for the purposes of this section, (d) the Department of Corrections, or (e) a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2; (ii) the nurse, physician assistant, or advanced practice registered nurse practitioner who is not an autonomous nurse practitioner is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician or autonomous nurse practitioner when his death occurs; (v) the patient's death has been anticipated; and (vi) the physician or autonomous nurse practitioner is unable to be present within a reasonable period of time to determine death. A licensed practical nurse may pronounce death for a patient in hospice pursuant to a valid Do Not Resuscitate Order issued in accordance with § 54.1-2987.1. The nurse, licensed practical nurse, physician assistant, or advanced practice registered nurse practitioner who is not an autonomous nurse practitioner shall inform the patient's attending and consulting physician or autonomous nurse practitioner of the patient's death as soon as practicable.

The nurse, licensed practical nurse, physician assistant, or advanced practice registered nurse practitioner who is not an autonomous nurse practitioner shall have the authority to pronounce death in accordance with such procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the circumstances of the death are not anticipated or the death requires an investigation by the Office of the Chief Medical Examiner, such nurse, licensed practical nurse, physician assistant, or advanced practice registered nurse practitioner shall notify the Office of the Chief Medical Examiner of the death and the body shall not be released to the funeral director.

This subsection shall not authorize a nurse, licensed practical nurse, physician assistant, or advanced practice registered nurse practitioner who is not an autonomous nurse practitioner to determine the cause of death. Determination of cause of death shall continue to be the responsibility of the attending physician or autonomous nurse practitioner, except as provided in § 32.1-263. Further, this subsection shall not be construed to impose any obligation to carry out the functions of this subsection.

This subsection shall not relieve any registered nurse, licensed practical nurse, physician assistant, or nurse practitioner who is not an autonomous nurse practitioner from any civil or criminal liability that

might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of Medicine regulations.

D. The alternative definitions of death provided in subdivisions B 1 and 2 may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.

**§ 54.1-2973.1. Practice of laser hair removal.**

The practice of laser hair removal shall be performed by a properly trained person licensed to practice medicine or osteopathic medicine or a physician assistant as authorized pursuant to § 54.1-2952 or a *an advanced practice registered nurse practitioner* as authorized pursuant to § 54.1-2957 or by a properly trained person under the direction and supervision of a licensed doctor of medicine or osteopathic medicine or a physician assistant as authorized pursuant to § 54.1-2952 or a *an advanced practice registered nurse practitioner* as authorized pursuant to § 54.1-2957 who may delegate such practice in accordance with subdivision A 6 of § 54.1-2901.

**§ 54.1-2983.2. Capacity; required determinations.**

A. Every adult shall be presumed to be capable of making an informed decision unless he is determined to be incapable of making an informed decision in accordance with this article. A determination that a patient is incapable of making an informed decision may apply to a particular health care decision, to a specified set of health care decisions, or to all health care decisions. No person shall be deemed incapable of making an informed decision based solely on a particular clinical diagnosis.

B. Except as provided in subsection C, prior to providing, continuing, withholding, or withdrawing health care pursuant to an authorization that has been obtained or will be sought pursuant to this article and prior to, or as soon as reasonably practicable after initiating health care for which authorization has been obtained or will be sought pursuant to this article, and no less frequently than every 180 days while the need for health care continues, the attending physician shall certify in writing upon personal examination of the patient that the patient is incapable of making an informed decision regarding health care and shall obtain written certification from a capacity reviewer that, based upon a personal examination of the patient, the patient is incapable of making an informed decision. However, certification by a capacity reviewer shall not be required if the patient is unconscious or experiencing a profound impairment of consciousness due to trauma, stroke, or other acute physiological condition. The capacity reviewer providing written certification that a patient is incapable of making an informed decision, if required, shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available. The cost of the assessment shall be considered for all purposes a cost of the patient's health care.

C. If a person has executed an advance directive granting an agent the authority to consent to the person's admission to a facility as defined in § 37.2-100 for mental health treatment and if the advance directive so authorizes, the person's agent may exercise such authority after a determination that the person is incapable of making an informed decision regarding such admission has been made by (i) the attending physician, (ii) a psychiatrist or licensed clinical psychologist, (iii) a licensed *advanced practice registered nurse practitioner*, (iv) a licensed physician assistant, (v) a licensed clinical social worker, or (vi) a designee of the local community services board as defined in § 37.2-809. Such determination shall be made in writing following an in-person examination of the person and certified by the physician, psychiatrist, licensed clinical psychologist, licensed *advanced practice registered nurse practitioner*, licensed physician assistant, licensed clinical social worker, or designee of the local community services board who performed the examination prior to admission or as soon as reasonably practicable thereafter. Admission of a person to a facility as defined in § 37.2-100 for mental health treatment upon the authorization of the person's agent shall be subject to the requirements of § 37.2-805.1. When a person has been admitted to a facility for mental health treatment upon the authorization of an agent following such a determination, such agent may authorize specific health care for the person, consistent with the provisions of the person's advance directive, only upon a determination that the person is incapable of making an informed decision regarding such health care in accordance with subsection B.

D. If, at any time, a patient is determined to be incapable of making an informed decision, the patient shall be notified, as soon as practical and to the extent he is capable of receiving such notice, that such determination has been made before providing, continuing, withholding, or withdrawing health care as authorized by this article. Such notice shall also be provided, as soon as practical, to the patient's agent or person authorized by § 54.1-2986 to make health care decisions on his behalf.

E. A single physician may, at any time, upon personal evaluation, determine that a patient who has previously been determined to be incapable of making an informed decision is now capable of making an informed decision, provided such determination is set forth in writing.

**§ 54.1-2986.2. Health care decisions in the event of patient protest.**

A. Except as provided in subsection B or C, the provisions of this article shall not authorize providing, continuing, withholding or withdrawing health care if the patient's attending physician knows

3749 that such action is protested by the patient.

3750 B. A patient's agent may make a health care decision over the protest of a patient who is incapable  
3751 of making an informed decision if:

3752 1. The patient's advance directive explicitly authorizes the patient's agent to make the health care  
3753 decision at issue, even over the patient's later protest, and an attending licensed physician, a licensed  
3754 clinical psychologist, a licensed physician assistant, a licensed *advanced practice registered nurse*  
3755 ~~practitioner~~, a licensed professional counselor, or a licensed clinical social worker who is familiar with  
3756 the patient attested in writing at the time the advance directive was made that the patient was capable of  
3757 making an informed decision and understood the consequences of the provision;

3758 2. The decision does not involve withholding or withdrawing life-prolonging procedures; and

3759 3. The health care that is to be provided, continued, withheld or withdrawn is determined and  
3760 documented by the patient's attending physician to be medically appropriate and is otherwise permitted  
3761 by law.

3762 C. In cases in which a patient has not explicitly authorized his agent to make the health care decision  
3763 at issue over the patient's later protest, a patient's agent or person authorized to make decisions pursuant  
3764 to § 54.1-2986 may make a decision over the protest of a patient who is incapable of making an  
3765 informed decision if:

3766 1. The decision does not involve withholding or withdrawing life-prolonging procedures;

3767 2. The decision does not involve (i) admission to a facility as defined in § 37.2-100 or (ii) treatment  
3768 or care that is subject to regulations adopted pursuant to § 37.2-400;

3769 3. The health care decision is based, to the extent known, on the patient's religious beliefs and basic  
3770 values and on any preferences previously expressed by the patient in an advance directive or otherwise  
3771 regarding such health care or, if they are unknown, is in the patient's best interests;

3772 4. The health care that is to be provided, continued, withheld, or withdrawn has been determined and  
3773 documented by the patient's attending physician to be medically appropriate and is otherwise permitted  
3774 by law; and

3775 5. The health care that is to be provided, continued, withheld, or withdrawn has been affirmed and  
3776 documented as being ethically acceptable by the health care facility's patient care consulting committee,  
3777 if one exists, or otherwise by two physicians not currently involved in the patient's care or in the  
3778 determination of the patient's capacity to make health care decisions.

3779 D. A patient's protest shall not revoke the patient's advance directive unless it meets the requirements  
3780 of § 54.1-2985.

3781 E. If a patient protests the authority of a named agent or any person authorized to make health care  
3782 decisions by § 54.1-2986, except for the patient's guardian, the protested individual shall have no  
3783 authority under this article to make health care decisions on his behalf unless the patient's advance  
3784 directive explicitly confers continuing authority on his agent, even over his later protest. If the protested  
3785 individual is denied authority under this subsection, authority to make health care decisions shall be  
3786 determined by any other provisions of the patient's advance directive, or in accordance with § 54.1-2986  
3787 or in accordance with any other provision of law.

3788 **§ 54.1-3000. Definitions.**

3789 As used in this chapter, unless the context requires a different meaning:

3790 "Advanced practice registered nurse" means a ~~registered nurse who~~ *certified nurse midwife, certified*  
3791 *registered nurse anesthetist, clinical nurse specialist, or nurse practitioner who is jointly licensed by the*  
3792 *Boards of Medicine and Nursing pursuant to § 54.1-2957*, has completed an advanced graduate-level  
3793 education program in a specialty category of nursing, and has passed a national certifying examination  
3794 for that specialty.

3795 "Board" means the Board of Nursing.

3796 "Certified nurse aide" means a person who meets the qualifications specified in this article and who  
3797 is currently certified by the Board.

3798 "Massage therapist" means a person who meets the qualifications specified in this chapter and who is  
3799 currently licensed by the Board.

3800 "Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of  
3801 massage and bodywork techniques based on the manipulation or application of pressure to the muscular  
3802 structure or soft tissues of the human body. The term "massage therapy" does not include the diagnosis  
3803 or treatment of illness or disease or any service or procedure for which a license to practice medicine,  
3804 nursing, midwifery, chiropractic, physical therapy, occupational therapy, acupuncture, athletic training, or  
3805 podiatry is required by law or any service described in subdivision A 18 of § 54.1-3001.

3806 "Massage therapy" shall not include manipulation of the spine or joints.

3807 "Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the  
3808 Boards of Medicine and Nursing pursuant to § 54.1-2957.

3809 "Practical nurse" or "licensed practical nurse" means a person who is licensed or holds a multistate  
3810 licensure privilege under the provisions of this chapter to practice practical nursing as defined in this

section. Such a licensee shall be empowered to provide nursing services without compensation. The abbreviation "L.P.N." shall stand for such terms.

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed or holds a multistate licensure privilege under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

**§ 54.1-3002. Board of Nursing; membership; terms; meetings; quorum; administrative officer.**

The Board of Nursing shall consist of 14 members as follows: eight registered nurses, at least two of whom are licensed ~~nurse practitioners~~ *advanced practice registered nurses*; two licensed practical nurses; three citizen members; and one member who shall be a registered nurse or a licensed practical nurse. The terms of office of the Board shall be four years.

The Board shall meet at least annually and shall elect officers from its membership. It may hold such other meetings as may be necessary to perform its duties. A majority of the Board including one of its officers shall constitute a quorum for the conduct of business at any meeting. Special meetings of the Board shall be called by the administrative officer upon written request of two members.

The Board shall have an administrative officer who shall be a registered nurse.

**§ 54.1-3005. Specific powers and duties of Board.**

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure, certification, or registration under this chapter;
2. To approve programs that meet the requirements of this chapter and of the Board;
3. To provide consultation service for educational programs as requested;
4. To provide for periodic surveys of educational or training programs;
5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;
6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;
7. To keep a record of all its proceedings;
8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;
9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical

3872 nurse specialists;

3873 10. To license and maintain a registry of all licensed massage therapists and to promulgate  
3874 regulations governing the criteria for licensure as a massage therapist and the standards of professional  
3875 conduct for licensed massage therapists;

3876 11. To promulgate regulations for the delegation of certain nursing tasks and procedures not  
3877 involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by  
3878 and under the supervision of a registered nurse, who retains responsibility and accountability for such  
3879 delegation;

3880 12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and  
3881 Education, guidelines for the training of employees of a school board in the administration of insulin  
3882 and glucagon for the purpose of assisting with routine insulin injections and providing emergency  
3883 treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by  
3884 September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs  
3885 of publication;

3886 13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate  
3887 regulations for its implementation;

3888 14. To collect, store and make available nursing workforce information regarding the various  
3889 categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

3890 15. To expedite application processing, to the extent possible, pursuant to § 54.1-119 for an applicant  
3891 for licensure or certification by the Board upon submission of evidence that the applicant, who is  
3892 licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official  
3893 military orders;

3894 16. To register medication aides and promulgate regulations governing the criteria for such  
3895 registration and standards of conduct for medication aides;

3896 17. To approve training programs for medication aides to include requirements for instructional  
3897 personnel, curriculum, continuing education, and a competency evaluation;

3898 18. To set guidelines for the collection of data by all approved nursing education programs and to  
3899 compile this data in an annual report. The data shall include but not be limited to enrollment, graduation  
3900 rate, attrition rate, and number of qualified applicants who are denied admission;

3901 19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees  
3902 of child day programs as defined in § 22.1-289.02 and regulated by the Board of Education in the  
3903 administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such  
3904 training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or  
3905 osteopathic medicine, or pharmacist;

3906 20. In order to protect the privacy and security of health professionals licensed, registered or certified  
3907 under this chapter, to promulgate regulations permitting use on identification badges of first name and  
3908 first letter only of last name and appropriate title when practicing in hospital emergency departments, in  
3909 psychiatric and mental health units and programs, or in health care facility units offering treatment for  
3910 patients in custody of state or local law-enforcement agencies;

3911 21. To revise, as may be necessary, guidelines for seizure management, in coordination with the  
3912 Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure  
3913 disorders in the public schools. The revised guidelines shall be finalized and made available to the  
3914 Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of  
3915 Education's website; and

3916 22. To promulgate, together with the Board of Medicine, regulations governing the licensure of ~~nurse~~  
3917 ~~practitioners~~ *advanced practice registered nurses* pursuant to § 54.1-2957 and the licensure of licensed  
3918 certified midwives pursuant to § 54.1-2957.04.

3919 **§ 54.1-3016.1. Correctional health assistants.**

3920 Licensed practical nurses, registered nurses, and ~~nurse practitioners~~ *advanced practice registered*  
3921 *nurses* may practice as correctional health assistants pursuant to § 54.1-2901.

3922 **§ 54.1-3300. Definitions.**

3923 As used in this chapter, unless the context requires a different meaning:

3924 "Board" means the Board of Pharmacy.

3925 "Collaborative agreement" means a voluntary, written, or electronic arrangement between one  
3926 pharmacist and his designated alternate pharmacists involved directly in patient care at a single physical  
3927 location where patients receive services and (i) any person licensed to practice medicine, osteopathy, or  
3928 podiatry together with any person licensed, registered, or certified by a health regulatory board of the  
3929 Department of Health Professions who provides health care services to patients of such person licensed  
3930 to practice medicine, osteopathy, or podiatry; (ii) a physician's office as defined in § 32.1-276.3,  
3931 provided that such collaborative agreement is signed by each physician participating in the collaborative  
3932 agreement; (iii) any licensed physician assistant working under the supervision of a person licensed to  
3933 practice medicine, osteopathy, or podiatry; or (iv) any licensed *advanced practice registered nurse*



practitioner working in accordance with the provisions of § 54.1-2957, involved directly in patient care which authorizes cooperative procedures with respect to patients of such practitioners. Collaborative procedures shall be related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations, for the purpose of improving patient outcomes. A collaborative agreement is not required for the management of patients of an inpatient facility.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.

"Pharmacist" means a person holding a license issued by the Board to practice pharmacy.

"Pharmacy" means every establishment or institution in which drugs, medicines, or medicinal chemicals are dispensed or offered for sale, or a sign is displayed bearing the word or words "pharmacist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "medicine store," "drug sundries," "prescriptions filled," or any similar words intended to indicate that the practice of pharmacy is being conducted.

"Pharmacy intern" means a student currently enrolled in or a graduate of an approved school of pharmacy who is registered with the Board for the purpose of gaining the practical experience required to apply for licensure as a pharmacist.

"Pharmacy technician" means a person registered with the Board to assist a pharmacist under the pharmacist's supervision.

"Pharmacy technician trainee" means a person registered with the Board for the purpose of performing duties restricted to a pharmacy technician as part of a pharmacy technician training program in accordance with the provisions of subsection G of § 54.1-3321.

"Practice of pharmacy" means the personal health service that is concerned with the art and science of selecting, procuring, recommending, administering, preparing, compounding, packaging, and dispensing of drugs, medicines, and devices used in the diagnosis, treatment, or prevention of disease, whether compounded or dispensed on a prescription or otherwise legally dispensed or distributed, and shall include (i) the proper and safe storage and distribution of drugs; (ii) the maintenance of proper records; (iii) the responsibility of providing information concerning drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease; (iv) the management of patient care under the terms of a collaborative agreement as defined in this section; and (v) the initiating of treatment with or dispensing or administering of certain drugs, devices, or controlled paraphernalia in accordance with the provisions of § 54.1-3303.1.

"Supervision" means the direction and control by a pharmacist of the activities of a pharmacy intern or a pharmacy technician whereby the supervising pharmacist is physically present in the pharmacy or in the facility in which the pharmacy is located when the intern or technician is performing duties restricted to a pharmacy intern or technician, respectively, and is available for immediate oral communication.

Other terms used in the context of this chapter shall be defined as provided in Chapter 34 (§ 54.1-3400 et seq.) unless the context requires a different meaning.

#### **§ 54.1-3300.1. Participation in collaborative agreements; regulations to be promulgated by the Boards of Medicine and Pharmacy.**

A. A pharmacist and his designated alternate pharmacists involved directly in patient care may participate with (i) any person licensed to practice medicine, osteopathy, or podiatry together with any person licensed, registered, or certified by a health regulatory board of the Department of Health Professions who provides health care services to patients of such person licensed to practice medicine, osteopathy, or podiatry; (ii) a physician's office as defined in § 32.1-276.3, provided that such collaborative agreement is signed by each physician participating in the collaborative agreement; (iii) any licensed physician assistant working in accordance with the provisions of § 54.1-2951.1; or (iv) any licensed *advanced practice registered nurse practitioner* working in accordance with the provisions of § 54.1-2957, involved directly in patient care in collaborative agreements which authorize cooperative procedures related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations, for the purpose of improving patient outcomes for patients who meet the criteria set forth in the collaborative agreement. However, no person licensed to practice medicine, osteopathy, or podiatry, or licensed as a *an advanced practice registered nurse practitioner* or physician assistant, shall be required to participate in a collaborative agreement with a pharmacist and his designated alternate pharmacists, regardless of whether a professional business entity on behalf of which the person is authorized to act enters into a collaborative agreement with a pharmacist and his designated alternate pharmacists.

B. A patient who meets the criteria for inclusion in the category of patients whose care is subject to a collaborative agreement and who chooses to not participate in a collaborative procedure shall notify the prescriber of his refusal to participate in such collaborative procedure. A prescriber may elect to

3995 have a patient not participate in a collaborative procedure by contacting the pharmacist or his designated  
3996 alternative pharmacists or by documenting the same on the patient's prescription.

3997 C. Collaborative agreements may include the implementation, modification, continuation, or  
3998 discontinuation of drug therapy pursuant to written or electronic protocols, provided implementation of  
3999 drug therapy occurs following diagnosis by the prescriber; the ordering of laboratory tests; or other  
4000 patient care management measures related to monitoring or improving the outcomes of drug or device  
4001 therapy. No such collaborative agreement shall exceed the scope of practice of the respective parties.  
4002 Any pharmacist who deviates from or practices in a manner inconsistent with the terms of a  
4003 collaborative agreement shall be in violation of § 54.1-2902; such violation shall constitute grounds for  
4004 disciplinary action pursuant to §§ 54.1-2400 and 54.1-3316.

4005 D. Collaborative agreements may only be used for conditions which have protocols that are clinically  
4006 accepted as the standard of care, or are approved by the Boards of Medicine and Pharmacy. The Boards  
4007 of Medicine and Pharmacy shall jointly develop and promulgate regulations to implement the provisions  
4008 of this section and to facilitate the development and implementation of safe and effective collaborative  
4009 agreements between the appropriate practitioners and pharmacists. The regulations shall include  
4010 guidelines concerning the use of protocols, and a procedure to allow for the approval or disapproval of  
4011 specific protocols by the Boards of Medicine and Pharmacy if review is requested by a practitioner or  
4012 pharmacist.

4013 E. Nothing in this section shall be construed to supersede the provisions of § 54.1-3303.

4014 **§ 54.1-3301. Exceptions.**

4015 This chapter shall not be construed to:

4016 1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any  
4017 physician acting on behalf of the Virginia Department of Health or local health departments, in the  
4018 compounding of his prescriptions or the purchase and possession of drugs as he may require;

4019 2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as  
4020 defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health  
4021 departments, from administering or supplying to his patients the medicines that he deems proper under  
4022 the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to  
4023 §§ 32.1-42.1 and 54.1-3408, except that a veterinarian shall only be authorized to dispense a  
4024 compounded drug, distributed from a pharmacy, when (i) the animal is his own patient, (ii) the animal is  
4025 a companion animal as defined in regulations promulgated by the Board of Veterinary Medicine, (iii) the  
4026 quantity dispensed is no more than a seven-day supply, (iv) the compounded drug is for the treatment of  
4027 an emergency condition, and (v) timely access to a compounding pharmacy is not available, as  
4028 determined by the prescribing veterinarian;

4029 3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34  
4030 (§ 54.1-3400 et seq.) of this title;

4031 4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34  
4032 (§ 54.1-3400 et seq.) of this title;

4033 5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the  
4034 regulations of the Board;

4035 6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from  
4036 purchasing, possessing or administering controlled substances to his own patients or providing controlled  
4037 substances to his own patients in a bona fide medical emergency or providing manufacturers'  
4038 professional samples to his own patients;

4039 7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic  
4040 pharmaceutical agents, from purchasing, possessing or administering those controlled substances as  
4041 specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to  
4042 prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own  
4043 patients those controlled substances as specified in § 54.1-3222 and the TPA formulary, providing  
4044 manufacturers' samples of these drugs to his own patients, or dispensing, administering, or selling  
4045 ophthalmic devices as authorized in § 54.1-3204;

4046 8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his  
4047 own patients manufacturers' professional samples of controlled substances and devices that he is  
4048 authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice  
4049 setting and a written agreement with a physician or podiatrist;

4050 9. Interfere with any licensed *advanced practice registered nurse practitioner* with prescriptive  
4051 authority receiving and dispensing to his own patients manufacturers' professional samples of controlled  
4052 substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to  
4053 prescribe;

4054 10. Interfere with any legally qualified practitioner of medicine or osteopathy participating in an  
4055 indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a  
4056 prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle

of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in the program shall not use the donated drug for any purpose other than dispensing to the patient for whom it was originally donated, except as authorized by the donating manufacturer for another patient meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent patient program pursuant to this subdivision. A participating pharmacy, including a pharmacy participating in bulk donation programs, may charge a reasonable dispensing or administrative fee to offset the cost of dispensing, not to exceed the actual costs of such dispensing. However, if the patient is unable to pay such fee, the dispensing or administrative fee shall be waived;

11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing controlled substances to his own patients in a free clinic without charge when such controlled substances are donated by an entity other than a pharmaceutical manufacturer as authorized by subdivision 10. The practitioner shall first obtain a controlled substances registration from the Board and shall comply with the labeling and packaging requirements of this chapter and the Board's regulations; or

12. Prevent any pharmacist from providing free health care to an underserved population in Virginia who (i) does not regularly practice pharmacy in Virginia, (ii) holds a current valid license or certificate to practice pharmacy in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any pharmacist whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a pharmacist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

This section shall not be construed as exempting any person from the licensure, registration, permitting and record keeping requirements of this chapter or Chapter 34 of this title.

**§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, a licensed *advanced practice registered nurse* practitioner pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship. If a practitioner is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, then a bona fide practitioner-patient relationship shall not be required.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled

4118 substances to that patient.

4119 A practitioner who has established a bona fide practitioner-patient relationship with a patient in  
4120 accordance with the provisions of this subsection may prescribe Schedule II through VI controlled  
4121 substances to that patient via telemedicine if such prescribing is in compliance with federal requirements  
4122 for the practice of telemedicine and, in the case of the prescribing of a Schedule II through V controlled  
4123 substance, the prescriber maintains a practice at a physical location in the Commonwealth or is able to  
4124 make appropriate referral of patients to a licensed practitioner located in the Commonwealth in order to  
4125 ensure an in-person examination of the patient when required by the standard of care.

4126 A prescriber may establish a bona fide practitioner-patient relationship for the purpose of prescribing  
4127 Schedule II through VI controlled substances by an examination through face-to-face interactive,  
4128 two-way, real-time communications services or store-and-forward technologies when all of the following  
4129 conditions are met: (a) the patient has provided a medical history that is available for review by the  
4130 prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the  
4131 prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of  
4132 care expected of in-person care as appropriate to the patient's age and presenting condition, including  
4133 when the standard of care requires the use of diagnostic testing and performance of a physical  
4134 examination, which may be carried out through the use of peripheral devices appropriate to the patient's  
4135 condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if  
4136 the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by  
4137 the health plan or carrier as a participating provider and the diagnosing and prescribing meets the  
4138 qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; (g) upon  
4139 request, the prescriber provides patient records in a timely manner in accordance with the provisions of  
4140 § 32.1-127.1:03 and all other state and federal laws and regulations; (h) the establishment of a bona fide  
4141 practitioner-patient relationship via telemedicine is consistent with the standard of care, and the standard  
4142 of care does not require an in-person examination for the purpose of diagnosis; and (i) the establishment  
4143 of a bona fide practitioner patient relationship via telemedicine is consistent with federal law and  
4144 regulations and any waiver thereof. Nothing in this paragraph shall apply to (1) a prescriber providing  
4145 on-call coverage per an agreement with another prescriber or his prescriber's professional entity or  
4146 employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of  
4147 prescribers for hospital out-patients or in-patients.

4148 For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a  
4149 veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he  
4150 is consulting has assumed the responsibility for making medical judgments regarding the health of and  
4151 providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in  
4152 § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400,  
4153 and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees  
4154 has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a  
4155 veterinarian has assumed responsibility for making medical judgments regarding the health of and  
4156 providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence  
4157 that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees  
4158 to provide a general or preliminary diagnosis of the medical condition of the animal, group of  
4159 agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals,  
4160 or bees, either physically or by the use of instrumentation and diagnostic equipment through which  
4161 images and medical records may be transmitted electronically or has become familiar with the care and  
4162 keeping of that species of animal or bee on the premises of the client, including other premises within  
4163 the same operation or production system of the client, through medically appropriate and timely visits to  
4164 the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to  
4165 provide follow-up care.

4166 C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of  
4167 treatment or for authorized research. A prescription not issued in the usual course of treatment or for  
4168 authorized research is not a valid prescription. A practitioner who prescribes any controlled substance  
4169 with the knowledge that the controlled substance will be used otherwise than for medicinal or  
4170 therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of  
4171 the provisions of law relating to the distribution or possession of controlled substances.

4172 D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists.  
4173 A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner  
4174 prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal  
4175 or therapeutic purpose within the course of his professional practice.

4176 In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship  
4177 exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his  
4178 agent and verify the identity of the patient and name and quantity of the drug prescribed.

4179 Any person knowingly filling an invalid prescription shall be subject to the criminal penalties

provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient and (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease. In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, *an advanced practice registered nurse practitioner*, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed *advanced practice registered nurse practitioner* who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

#### **§ 54.1-3304.1. Authority to license and regulate practitioners; permits.**

A. The Board of Pharmacy shall have the authority to license and regulate the dispensing of controlled substances by practitioners of the healing arts. Except as prescribed in this chapter or by Board regulations, it shall be unlawful for any practitioner of the healing arts to dispense controlled substances within the Commonwealth unless licensed by the Board to sell controlled substances.

B. Facilities from which practitioners of the healing arts dispense controlled substances shall obtain a permit from the Board and comply with the regulations for practitioners of the healing arts to sell controlled substances. Facilities in which only one practitioner of the healing arts is licensed by the Board to sell controlled substances shall be exempt from fees associated with obtaining and renewing such permit.

4241 C. The Board of Pharmacy may issue a limited-use license for the purpose of dispensing Schedule  
4242 VI controlled substances, excluding the combination of misoprostol and methotrexate, and hypodermic  
4243 syringes and needles for the administration of prescribed controlled substances to a doctor of medicine,  
4244 osteopathic medicine, or podiatry, a *an advanced practice registered nurse practitioner*, or a physician  
4245 assistant, provided that such limited-use licensee is practicing at a nonprofit facility. Such facility shall  
4246 obtain a limited-use permit from the Board and comply with regulations for such a permit.

4247 **§ 54.1-3401. Definitions.**

4248 As used in this chapter, unless the context requires a different meaning:

4249 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,  
4250 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his  
4251 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the  
4252 presence of the practitioner.

4253 "Advertisement" means all representations disseminated in any manner or by any means, other than  
4254 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the  
4255 purchase of drugs or devices.

4256 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,  
4257 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or  
4258 employee of the carrier or warehouseman.

4259 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related  
4260 to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

4261 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

4262 "Automated drug dispensing system" means a mechanical or electronic system that performs  
4263 operations or activities, other than compounding or administration, relating to pharmacy services,  
4264 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of  
4265 all transaction information, to provide security and accountability for such drugs.

4266 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood  
4267 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or  
4268 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic  
4269 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human  
4270 beings.

4271 "Biosimilar" means a biological product that is highly similar to a specific reference biological  
4272 product, notwithstanding minor differences in clinically inactive compounds, such that there are no  
4273 clinically meaningful differences between the reference biological product and the biological product that  
4274 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency  
4275 of the product.

4276 "Board" means the Board of Pharmacy.

4277 "Bulk drug substance" means any substance that is represented for use, and that, when used in the  
4278 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a  
4279 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that  
4280 are used in the synthesis of such substances.

4281 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i)  
4282 the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns  
4283 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a  
4284 partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more  
4285 of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation  
4286 of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the  
4287 voting stock of which is actively traded on any securities exchange or in any over-the-counter market;  
4288 (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned  
4289 subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a  
4290 corporation's charter.

4291 "Co-licensed partner" means a person who, with at least one other person, has the right to engage in  
4292 the manufacturing or marketing of a prescription drug, consistent with state and federal law.

4293 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into a  
4294 single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by  
4295 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or  
4296 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in  
4297 expectation of receiving a valid prescription based on observed historical patterns of prescribing and  
4298 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as  
4299 an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the  
4300 course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or  
4301 chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a  
4302 manufacturer's product drugs for the purpose of administration to a patient, when performed by a

practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed *advanced practice registered nurse practitioner* or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, *an advanced practice registered nurse practitioner*, a physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use

4364 as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug"  
4365 does not include devices or their components, parts, or accessories.

4366 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether  
4367 by brand or therapeutically equivalent drug product name.

4368 "Electronic prescription" means a written prescription that is generated on an electronic application  
4369 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be  
4370 transmitted in accordance with 21 C.F.R. Part 1300.

4371 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an  
4372 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy  
4373 form.

4374 "FDA" means the U.S. Food and Drug Administration.

4375 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by  
4376 regulation designates as being the principal compound commonly used or produced primarily for use,  
4377 and which is an immediate chemical intermediary used or likely to be used in the manufacture of a  
4378 controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

4379 "Interchangeable" means a biosimilar that meets safety standards for determining interchangeability  
4380 pursuant to 42 U.S.C. § 262(k)(4).

4381 "Label" means a display of written, printed, or graphic matter upon the immediate container of any  
4382 article. A requirement made by or under authority of this chapter that any word, statement, or other  
4383 information appear on the label shall not be considered to be complied with unless such word,  
4384 statement, or other information also appears on the outside container or wrapper, if any, of the retail  
4385 package of such article or is easily legible through the outside container or wrapper.

4386 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its  
4387 containers or wrappers, or accompanying such article.

4388 "Manufacture" means the production, preparation, propagation, conversion, or processing of any item  
4389 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or  
4390 independently by means of chemical synthesis, or by a combination of extraction and chemical  
4391 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its  
4392 container. This term does not include compounding.

4393 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a  
4394 repackager.

4395 "Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or  
4396 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its  
4397 seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the  
4398 mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such  
4399 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis.  
4400 Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person  
4401 registered pursuant to subsection A of § 3.2-4115 or his agent, (ii) industrial hemp, as defined in  
4402 § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S.  
4403 Department of Agriculture pursuant to 7 C.F.R. Part 990, or (iii) a hemp product, as defined in  
4404 § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived  
4405 from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with  
4406 state or federal law.

4407 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to  
4408 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and  
4409 needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with  
4410 no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for  
4411 peritoneal dialysis, and sterile water or saline for irrigation.

4412 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction  
4413 from substances of vegetable origin, or independently by means of chemical synthesis, or by a  
4414 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,  
4415 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof  
4416 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not  
4417 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and  
4418 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,  
4419 derivative, or preparation thereof which is chemically equivalent or identical with any of these  
4420 substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain  
4421 cocaine or ecgonine.

4422 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a  
4423 new animal drug, the composition of which is such that such drug is not generally recognized, among  
4424 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,  
4425 as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,



except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed *advanced practice registered nurse practitioner* pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only

4487 advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic,  
4488 a drug that may be dispensed only upon prescription or the label of which bears substantially the  
4489 statement "Warning — may be habit-forming," or a drug intended for injection.

4490 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei  
4491 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or  
4492 radionuclide generator that is intended to be used in the preparation of any such substance, but does not  
4493 include drugs such as carbon-containing compounds or potassium-containing salts that include trace  
4494 quantities of naturally occurring radionuclides. The term also includes any biological product that is  
4495 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

4496 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.  
4497 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food  
4498 and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to  
4499 42 U.S.C. § 262(k).

4500 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any  
4501 person, whether as an individual, proprietor, agent, servant, or employee.

4502 "Therapeutically equivalent drug products" means drug products that contain the same active  
4503 ingredients and are identical in strength or concentration, dosage form, and route of administration and  
4504 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration  
4505 pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent  
4506 edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as  
4507 the "Orange Book."

4508 "Third-party logistics provider" means a person that provides or coordinates warehousing of or other  
4509 logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale  
4510 distributor, or dispenser of the drug or device but does not take ownership of the product or have  
4511 responsibility for directing the sale or disposition of the product.

4512 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

4513 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party  
4514 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or  
4515 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI  
4516 prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be  
4517 subject to any state or local tax by reason of this definition.

4518 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers  
4519 or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer  
4520 pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security  
4521 Act.

4522 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed  
4523 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

4524 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter  
4525 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses  
4526 or lenses for the eyes.

4527 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be  
4528 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

4529 **§ 54.1-3408. Professional use by practitioners.**

4530 A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed  
4531 *advanced practice registered nurse practitioner* pursuant to § 54.1-2957.01, a licensed certified midwife  
4532 pursuant to § 54.1-2957.04, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified  
4533 optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or  
4534 administer controlled substances in good faith for medicinal or therapeutic purposes within the course of  
4535 his professional practice.

4536 B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral  
4537 prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may  
4538 cause drugs or devices to be administered by:

4539 1. A nurse, physician assistant, or intern under his direction and supervision;

4540 2. Persons trained to administer drugs and devices to patients in state-owned or state-operated  
4541 hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by  
4542 the Department of Behavioral Health and Developmental Services who administer drugs under the  
4543 control and supervision of the prescriber or a pharmacist;

4544 3. Emergency medical services personnel certified and authorized to administer drugs and devices  
4545 pursuant to regulations of the Board of Health who act within the scope of such certification and  
4546 pursuant to an oral or written order or standing protocol; or

4547 4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled  
4548 substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or standing protocol that shall be issued by the local health director within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is employed, provided that such person is trained in the administration of epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and

4610 administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

4611 F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course  
4612 of his professional practice, such prescriber may authorize licensed athletic trainers to possess and  
4613 administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use  
4614 in emergency situations; epinephrine for use in emergency cases of anaphylactic shock; and naloxone or  
4615 other opioid antagonist for overdose reversal.

4616 G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the  
4617 course of his professional practice, and in accordance with policies and guidelines established by the  
4618 Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or  
4619 licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin  
4620 purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and  
4621 guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control  
4622 and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to  
4623 incorporate any subsequently implemented standards of the Occupational Safety and Health  
4624 Administration and the Department of Labor and Industry to the extent that they are inconsistent with  
4625 the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the  
4626 categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate  
4627 medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse  
4628 implementing such standing protocols has received adequate training in the practice and principles  
4629 underlying tuberculin screening.

4630 The Health Commissioner or his designee may authorize registered nurses, acting as agents of the  
4631 Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein  
4632 derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and  
4633 policies established by the Department of Health.

4634 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his  
4635 professional practice, such prescriber may authorize, with the consent of the parents as defined in  
4636 § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in  
4637 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19  
4638 as administered by the Virginia Council for Private Education who is trained in the administration of  
4639 insulin and glucagon to assist with the administration of insulin or administer glucagon to a student  
4640 diagnosed as having diabetes and who requires insulin injections during the school day or for whom  
4641 glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall  
4642 only be effective when a licensed nurse, *an advanced practice registered nurse practitioner*, a physician,  
4643 or a physician assistant is not present to perform the administration of the medication.

4644 Pursuant to a written order or standing protocol issued by the prescriber within the course of his  
4645 professional practice, such prescriber may authorize an employee of a public institution of higher  
4646 education or a private institution of higher education who is trained in the administration of insulin and  
4647 glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed  
4648 as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the  
4649 emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse,  
4650 *an advanced practice registered nurse practitioner*, a physician, or a physician assistant is not present to  
4651 perform the administration of the medication.

4652 Pursuant to a written order issued by the prescriber within the course of his professional practice,  
4653 such prescriber may authorize an employee of a provider licensed by the Department of Behavioral  
4654 Health and Developmental Services or a person providing services pursuant to a contract with a provider  
4655 licensed by the Department of Behavioral Health and Developmental Services to assist with the  
4656 administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who  
4657 requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of  
4658 hypoglycemia, provided such employee or person providing services has been trained in the  
4659 administration of insulin and glucagon.

4660 I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the  
4661 administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is  
4662 not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses  
4663 under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with  
4664 established protocols of the Department of Health may authorize the administration of vaccines to any  
4665 person by a pharmacist, nurse, or designated emergency medical services provider who holds an  
4666 advanced life support certificate issued by the Commissioner of Health under the direction of an  
4667 operational medical director when the prescriber is not physically present. The emergency medical  
4668 services provider shall provide documentation of the vaccines to be recorded in the Virginia  
4669 Immunization Information System.

4670 J. A dentist may cause Schedule VI topical drugs to be administered under his direction and  
4671 supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, a licensed practical nurse, an advanced practice registered nurse practitioner, a physician assistant, a doctor of medicine or osteopathic medicine, or a pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from

4733 a pharmacy and maintained in the original, labeled container that would normally be self-administered  
4734 by the child or student, or administered by a parent or guardian to the child or student.

4735 P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by  
4736 persons if they are authorized by the State Health Commissioner in accordance with protocols  
4737 established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has  
4738 declared a disaster or a state of emergency, the United States Secretary of Health and Human Services  
4739 has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public  
4740 health emergency, or the Board of Health has made an emergency order pursuant to § 32.1-13 for the  
4741 purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and  
4742 infectious diseases and other dangers to the public life and health and for the limited purpose of  
4743 administering vaccines as an approved countermeasure for such communicable, contagious, and  
4744 infectious diseases; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such  
4745 persons have received the training necessary to safely administer or dispense the needed drugs or  
4746 devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and  
4747 supervision of the State Health Commissioner.

4748 Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by  
4749 unlicensed individuals to a person in his private residence.

4750 R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his  
4751 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to  
4752 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid  
4753 prescriptions.

4754 S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care  
4755 technicians who are certified by an organization approved by the Board of Health Professions or persons  
4756 authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary  
4757 course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical  
4758 needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the  
4759 purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the  
4760 orders of a licensed physician, *an advanced practice registered nurse practitioner*, or a physician  
4761 assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this  
4762 chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis  
4763 care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis  
4764 technician training program, provided such trainee is identified as a "trainee" while working in a renal  
4765 dialysis facility.

4766 The dialysis care technician or dialysis patient care technician administering the medications shall  
4767 have demonstrated competency as evidenced by holding current valid certification from an organization  
4768 approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

4769 T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be  
4770 authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

4771 U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a  
4772 prescriber may authorize the administration of controlled substances by personnel who have been  
4773 properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not  
4774 include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for  
4775 such administration.

4776 V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine,  
4777 osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an  
4778 oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or  
4779 dentistry.

4780 W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may  
4781 authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse,  
4782 licensed practical nurse under the direction and immediate supervision of a registered nurse, or  
4783 emergency medical services provider who holds an advanced life support certificate issued by the  
4784 Commissioner of Health when the prescriber is not physically present.

4785 X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order  
4786 issued by a prescriber or a standing order issued by the Commissioner of Health or his designee  
4787 authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the  
4788 absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with  
4789 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the  
4790 Department of Health, a pharmacist, a health care provider providing services in a hospital emergency  
4791 department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may  
4792 dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone  
4793 or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer  
4794 naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be

4795 experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as  
 4796 defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the  
 4797 Chief Medical Examiner, employees of the Department of General Services Division of Consolidated  
 4798 Laboratory Services, employees of the Department of Corrections designated as probation and parole  
 4799 officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile  
 4800 Justice designated as probation and parole officers or as juvenile correctional officers, employees of  
 4801 regional jails, school nurses, local health department employees that are assigned to a public school  
 4802 pursuant to an agreement between the local health department and the school board, other school board  
 4803 employees or individuals contracted by a school board to provide school health services, and firefighters  
 4804 who have completed a training program may also possess and administer naloxone or other opioid  
 4805 antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for  
 4806 overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing  
 4807 order issued by the Commissioner of Health or his designee in accordance with protocols developed by  
 4808 the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

4809 Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued  
 4810 by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the  
 4811 dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or  
 4812 written order for a specific patient issued by a prescriber, and in accordance with protocols developed by  
 4813 the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, an  
 4814 employee or other person acting on behalf of a public place who has completed a training program may  
 4815 also possess and administer naloxone or other opioid antagonist used for overdose reversal other than  
 4816 naloxone in an injectable formulation with a hypodermic needle or syringe in accordance with protocols  
 4817 developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of  
 4818 Health.

4819 Notwithstanding any other law or regulation to the contrary, an employee or other person acting on  
 4820 behalf of a public place may possess and administer naloxone or other opioid antagonist, other than  
 4821 naloxone in an injectable formulation with a hypodermic needle or syringe, to a person who is believed  
 4822 to be experiencing or about to experience a life-threatening opioid overdose if he has completed a  
 4823 training program on the administration of such naloxone and administers naloxone in accordance with  
 4824 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the  
 4825 Department of Health.

4826 For the purposes of this subsection, "public place" means any enclosed area that is used or held out  
 4827 for use by the public, whether owned or operated by a public or private interest.

4828 Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of  
 4829 an organization that provides services to individuals at risk of experiencing an opioid overdose or  
 4830 training in the administration of naloxone for overdose reversal may dispense naloxone to a person who  
 4831 has received instruction on the administration of naloxone for opioid overdose reversal, provided that  
 4832 such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with  
 4833 protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the  
 4834 Department of Health. If the person acting on behalf of an organization dispenses naloxone in an  
 4835 injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the  
 4836 Department of Behavioral Health and Developmental Services to train individuals on the proper  
 4837 administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall  
 4838 obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not  
 4839 charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a  
 4840 site other than that of the controlled substance registration provided the entity possessing the controlled  
 4841 substances registration maintains records in accordance with regulations of the Board of Pharmacy. No  
 4842 person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a  
 4843 fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the  
 4844 naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may  
 4845 possess naloxone and may administer naloxone to a person who is believed to be experiencing or about  
 4846 to experience a life-threatening opioid overdose.

4847 Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used  
 4848 for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a  
 4849 person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

4850 AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his  
 4851 professional practice, such prescriber may authorize, with the consent of the parents as defined in  
 4852 § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in  
 4853 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19  
 4854 as administered by the Virginia Council for Private Education who is trained in the administration of  
 4855 injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal

4856 insufficiency to administer such medication to a student diagnosed with a condition causing adrenal  
4857 insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis.  
4858 Such authorization shall be effective only when a licensed nurse, *an advanced practice registered nurse*  
4859 ~~practitioner~~, a physician, or a physician assistant is not present to perform the administration of the  
4860 medication.

4861 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

4862 A. As used in this section:

4863 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts  
4864 of the same chemovar of cannabis plant.

4865 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include  
4866 industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor  
4867 pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10  
4868 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as  
4869 defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless  
4870 it has been grown and processed in the Commonwealth by a registered industrial hemp processor and  
4871 acquired and formulated by a pharmaceutical processor.

4872 "Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered  
4873 with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical  
4874 cannabis.

4875 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to  
4876 § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services  
4877 or home health services, private provider licensed by the Department of Behavioral Health and  
4878 Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted  
4879 living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to  
4880 § 63.2-1701.

4881 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a  
4882 physician assistant licensed by the Board of Medicine, or a *an advanced practice registered nurse*  
4883 ~~practitioner~~ jointly licensed by the Board of Medicine and the Board of Nursing.

4884 "Registered agent" means an individual designated by a patient who has been issued a written  
4885 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by  
4886 such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

4887 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been  
4888 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced  
4889 from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the  
4890 mature stalks; or (iii) oil or cake made from the seeds of the plant.

4891 B. A practitioner in the course of his professional practice may issue a written certification for the  
4892 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or  
4893 disease determined by the practitioner to benefit from such use. The practitioner shall use his  
4894 professional judgment to determine the manner and frequency of patient care and evaluation and may  
4895 employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient  
4896 care through real-time interactive audio-visual technology. If a practitioner determines it is consistent  
4897 with the standard of care to dispense botanical cannabis to a minor, the written certification shall  
4898 specifically authorize such dispensing. If not specifically included on the initial written certification,  
4899 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at  
4900 the time of dispensing.

4901 C. The written certification shall be on a form provided by the Board of Pharmacy. Such written  
4902 certification shall contain the name, address, and telephone number of the practitioner; the name and  
4903 address of the patient issued the written certification; the date on which the written certification was  
4904 made; and the signature or authentic electronic signature of the practitioner. Such written certification  
4905 issued pursuant to subsection B shall expire no later than one year after its issuance unless the  
4906 practitioner provides in such written certification an earlier expiration. A written certification shall not be  
4907 issued to a patient by more than one practitioner during any given time period.

4908 D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a  
4909 certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's  
4910 diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B.  
4911 Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing  
4912 to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard  
4913 of care for evaluating or treating medical conditions.

4914 E. A practitioner who issues a written certification to a patient pursuant to this section shall register  
4915 with the Board and shall hold sufficient education and training to exercise appropriate professional  
4916 judgment in the certification of patients. The Board shall not limit the number of patients to whom a  
4917 practitioner may issue a written certification. The Board may report information to the applicable



licensing board on unusual patterns of certifications issued by a practitioner.

F. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit, on a monthly basis, all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Board.

G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a registered agent, but only with respect to information related to such patient.

**§ 54.1-3482. Practice of physical therapy; certain experience and referrals required; physical therapist assistants.**

A. It shall be unlawful for a person to engage in the practice of physical therapy except as a licensed physical therapist, upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner* practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician, except as provided in this section.

B. A physical therapist who has completed a doctor of physical therapy program approved by the Commission on Accreditation of Physical Therapy Education or who has obtained a certificate of authorization pursuant to § 54.1-3482.1 may evaluate and treat a patient for no more than 60 consecutive days after an initial evaluation without a referral under the following conditions: (i) the patient is not receiving care from any licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner* practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician for the symptoms giving rise to the presentation at the time of the presentation to the physical therapist for physical therapy services or (ii) the patient is receiving care from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner* practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician at the time of his presentation to the physical therapist for the symptoms giving rise to the presentation for physical therapy services and (a) the patient identifies a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner* practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician from whom he is currently receiving care; (b) the patient gives written consent for the physical therapist to release all personal health information and treatment records to the identified practitioner; and (c) the physical therapist notifies the practitioner identified by the patient no later than 14 days after treatment commences and provides the practitioner with a copy of the initial evaluation along with a copy of the patient history obtained by the physical therapist. Treatment for more than 60 consecutive days after evaluation of such patient shall only be upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner* practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. A physical therapist may contact the practitioner identified by the patient at the end of the 60-day period to determine if the practitioner will authorize additional physical therapy services until such time as the patient can be seen by the practitioner. After

4979 discharging a patient, a physical therapist shall not perform an initial evaluation of a patient under this  
4980 subsection without a referral if the physical therapist has performed an initial evaluation of the patient  
4981 under this subsection for the same condition within the immediately preceding 60 days.

4982 C. A physical therapist who has not completed a doctor of physical therapy program approved by the  
4983 Commission on Accreditation of Physical Therapy Education or who has not obtained a certificate of  
4984 authorization pursuant to § 54.1-3482.1 may conduct a one-time evaluation that does not include  
4985 treatment of a patient without the referral and direction of a licensed doctor of medicine, osteopathy,  
4986 chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner*  
4987 practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting  
4988 under the supervision of a licensed physician; if appropriate, the physical therapist shall immediately  
4989 refer such patient to the appropriate practitioner.

4990 D. Invasive procedures within the scope of practice of physical therapy shall at all times be  
4991 performed only under the referral and direction of a licensed doctor of medicine, osteopathy,  
4992 chiropractic, podiatry, or dental surgery, a licensed *advanced practice registered nurse practitioner*  
4993 practicing in accordance with the provisions of § 54.1-2957, or a licensed physician assistant acting  
4994 under the supervision of a licensed physician.

4995 E. It shall be unlawful for any licensed physical therapist to fail to immediately refer any patient to a  
4996 licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, or a licensed *advanced*  
4997 *practice registered nurse practitioner* practicing in accordance with the provisions of § 54.1-2957 when  
4998 such patient's medical condition is determined, at the time of evaluation or treatment, to be beyond the  
4999 physical therapist's scope of practice. Upon determining that the patient's medical condition is beyond  
5000 the scope of practice of a physical therapist, a physical therapist shall immediately refer such patient to  
5001 an appropriate practitioner.

5002 F. Any person licensed as a physical therapist assistant shall perform his duties only under the  
5003 direction and control of a licensed physical therapist.

5004 G. However, a licensed physical therapist may provide, without referral or supervision, physical  
5005 therapy services to (i) a student athlete participating in a school-sponsored athletic activity while such  
5006 student is at such activity in a public, private, or religious elementary, middle or high school, or public  
5007 or private institution of higher education when such services are rendered by a licensed physical  
5008 therapist who is certified as an athletic trainer by the National Athletic Trainers' Association Board of  
5009 Certification or as a sports certified specialist by the American Board of Physical Therapy Specialties;  
5010 (ii) employees solely for the purpose of evaluation and consultation related to workplace ergonomics;  
5011 (iii) special education students who, by virtue of their individualized education plans (IEPs), need  
5012 physical therapy services to fulfill the provisions of their IEPs; (iv) the public for the purpose of  
5013 wellness, fitness, and health screenings; (v) the public for the purpose of health promotion and  
5014 education; and (vi) the public for the purpose of prevention of impairments, functional limitations, and  
5015 disabilities.

5016 **§ 54.1-3482.1. Certain certification required.**

5017 A. The Board shall promulgate regulations establishing criteria for certification of physical therapists  
5018 to provide certain physical therapy services pursuant to subsection B of § 54.1-3482 without referral  
5019 from a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, a  
5020 licensed *advanced practice registered nurse practitioner* practicing in accordance with the provisions of  
5021 § 54.1-2957, or a licensed physician assistant acting under the supervision of a licensed physician. The  
5022 regulations shall include but not be limited to provisions for (i) the promotion of patient safety; (ii) an  
5023 application process for a one-time certification to perform such procedures; and (iii) minimum education,  
5024 training, and experience requirements for certification to perform such procedures.

5025 B. The minimum education, training, and experience requirements for certification shall include  
5026 evidence that the applicant has successfully completed (i) a transitional program in physical therapy as  
5027 recognized by the Board or (ii) at least three years of active practice with evidence of continuing  
5028 education relating to carrying out direct access duties under § 54.1-3482.

5029 **§ 54.1-3812. Release of records.**

5030 A. A veterinarian licensed by the Board shall release or authorize the release of rabies immunization  
5031 records and other relevant treatment data of an animal under his care to (i) a requesting physician,  
5032 physician assistant, or *advanced practice registered nurse practitioner* who is contemplating the  
5033 administration of the rabies treatment protocol to any person under his care who has been the victim of  
5034 a bite or other possible rabies exposure from such animal; (ii) a requesting animal control officer or  
5035 law-enforcement officer who needs to identify the owner of such animal or verify the rabies vaccination  
5036 history of such animal; or (iii) a requesting animal control officer or an official of the Department of  
5037 Health who is investigating the incident.

5038 B. Any veterinarian licensed by the Board who in good faith releases or authorizes the release of an  
5039 animal's rabies immunization records and other relevant data pursuant to this section shall not be liable  
5040 for civil damages resulting from the release of such information.

**§ 58.1-439.22. Donations of professional services.**

A. A sole proprietor, partnership or limited liability company engaged in the business of providing professional services shall be eligible for a tax credit under this article based on the time spent by the proprietor or a partner or member, respectively, who renders professional services to a program that has received an allocation of tax credits from the Superintendent of Public Instruction or the Commissioner of Social Services. The value of the professional services, for purposes of determining the amount of the tax credit allowable, rendered by the proprietor or a partner or member to an approved program shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

B. A business firm shall be eligible for a tax credit under this article for the time spent by a salaried employee who renders professional services to an approved program. The value of the professional services, for purposes of determining the amount of tax credit allowed to a business firm for time spent by its salaried employee in rendering professional services to an approved project, shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered professional services to the approved program.

C. Notwithstanding any provision of this article limiting eligibility for tax credits to business firms, physicians, chiropractors, dentists, nurses, ~~nurse practitioners~~ *advanced practice registered nurses*, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of a clinic operated by an organization that has received an allocation of tax credits from the Commissioner of Social Services and such clinic is organized in whole or in part for the delivery of health care services without charge, or to a clinic operated not for profit providing health care services for charges not exceeding those set forth in a scale prescribed by the State Board of Health pursuant to § 32.1-11 for charges to be paid by persons based upon ability to pay, shall be eligible for a tax credit pursuant to § 58.1-439.21 based on the time spent in providing health care services to patients of such clinic, regardless of where the services are delivered.

Notwithstanding any provision of this article limiting eligibility for tax credits, a pharmacist who donates pharmaceutical services to patients of a free clinic, which clinic is an organization exempt from taxation under the provisions of § 501(c)(3) of the Internal Revenue Code, with such pharmaceutical services performed at the direction of an approved neighborhood organization that has received an allocation of tax credits from the Commissioner of Social Services, shall be eligible for tax credits under this article based on the time spent in providing such pharmaceutical services, regardless of where the services are delivered.

Notwithstanding any provision of this article limiting eligibility for tax credits, mediators certified pursuant to guidelines promulgated by the Judicial Council of Virginia who provide services within the scope of such certification, without charge, at the direction of an approved neighborhood organization that provides court-referred mediation services and that has received an allocation of tax credits from the Commissioner of Social Services shall be eligible for tax credits under this article based on the time spent in providing such mediation services, regardless of where the services are delivered.

The value of such services, for purposes of determining the amount of the tax credit allowable, rendered by the physician, chiropractor, dentist, nurse, *advanced practice registered nurse practitioner*, physician assistant, optometrist, dental hygienist, professional counselor, clinical social worker, clinical psychologist, marriage and family therapist, physical therapist, pharmacist, or mediator shall not exceed the lesser of (i) the reasonable cost for similar services from other providers or (ii) \$125 per hour.

D. Notwithstanding any provision of this article limiting eligibility for tax credits and for tax credit allocations beginning with fiscal year 2015-2016, a physician specialist who donates specialty medical services to patients referred from an approved neighborhood organization (i) that has received an allocation of tax credits from the Commissioner of Social Services, (ii) whose sole purpose is to provide specialty medical referral services to patients of participating clinics or federally qualified health centers, and (iii) that is exempt from taxation under the provisions of § 501(c)(3) of the Internal Revenue Code shall be eligible for tax credits under this article issued to such organization regardless of where the specialty medical services are delivered.

The value of such services, for purposes of determining the amount of tax credit allowable, rendered by the physician specialist shall not exceed the lesser of (a) the reasonable cost for similar services from other providers or (b) \$125 per hour.

**§ 58.1-609.10. Miscellaneous exemptions.**

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

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil

5102 by an individual purchaser for other than business, commercial or industrial purposes. The Tax  
5103 Commissioner shall establish by regulation a system for use by dealers in classifying individual  
5104 purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil.  
5105 Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any  
5106 portion of such purchase for domestic use may, between the first day of the first month and the fifteenth  
5107 day of the fourth month following the year of purchase, apply for a refund of the tax paid on the  
5108 domestic use portion.

5109 2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted  
5110 an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption  
5111 pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food,  
5112 prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and  
5113 meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

5114 3. Tangible personal property for future use by a person for taxable lease or rental as an established  
5115 business or part of an established business, or incidental or germane to such business, including a  
5116 simultaneous purchase and taxable leaseback.

5117 4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside  
5118 of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be  
5119 deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5120 5. Tangible personal property purchased with food coupons issued by the United States Department  
5121 of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special  
5122 Supplemental Food Program for Women, Infants, and Children.

5123 6. Tangible personal property purchased for use or consumption in the performance of maintenance  
5124 and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the  
5125 Commonwealth.

5126 7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised,  
5127 edited, reformatted or copied documents, including but not limited to documents stored on or transmitted  
5128 by electronic media, to its client or to third parties in the course of the professional's rendition of  
5129 services to its clientele.

5130 8. School lunches sold and served to pupils and employees of schools and subsidized by government;  
5131 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use  
5132 by students attending a college or other institution of learning, when sold (i) by such institution of  
5133 learning or (ii) by any other dealer, when such textbooks have been certified by a department or  
5134 instructor of such institution of learning as required textbooks for students attending courses at such  
5135 institution.

5136 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases,  
5137 and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or  
5138 other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed  
5139 free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed  
5140 physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and  
5141 fitters, ~~nurse practitioners~~ *advanced practice registered nurses*, physician assistants, and veterinarians;  
5142 controlled drugs purchased for use by a licensed physician, optometrist, licensed *advanced practice*  
5143 *registered nurse practitioner*, or licensed physician assistant in his professional practice, regardless of  
5144 whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or  
5145 any other type of corporation in which the shareholders and operators are all licensed physicians,  
5146 optometrists, licensed ~~nurse practitioners~~ *advanced practice registered nurses*, or licensed physician  
5147 assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for  
5148 use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise  
5149 exempt under this section; and samples of prescription drugs and medicines and their packaging  
5150 distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and  
5151 Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended).

5152 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,  
5153 catheters, urinary accessories, other durable medical equipment and devices, and related parts and  
5154 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,  
5155 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when  
5156 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable  
5157 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily  
5158 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or  
5159 injury, and (iv) is appropriate for use in the home.

5160 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

5161 12. Special equipment installed on a motor vehicle when purchased by a handicapped person to  
5162 enable such person to operate the motor vehicle.

5163 13. Special typewriters and computers and related parts and supplies specifically designed for those

products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight of at least 2,400 pounds.

21. A gun safe with a selling price of \$1,500 or less. For purposes of this subdivision, "gun safe" means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as defined in § 54.1-3303.

#### **§ 59.1-297. Right of cancellation.**

A. Every health club contract for the sale of health club services may be cancelled under the following circumstances:

1. A buyer may cancel the contract without penalty within three business days of its making and, upon notice to the health club of the buyer's intent to cancel, shall be entitled to receive a refund of all moneys paid under the contract.

2. A buyer may cancel the contract if the facility relocates or goes out of business and the health club fails to provide comparable alternate facilities within five driving miles of the location designated in the health club contract. Upon receipt of notice of the buyer's intent to cancel, the health club shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in § 59.1-297.1.

3. The contract may be cancelled if the buyer dies or becomes physically unable to use a substantial portion of the services for 30 or more consecutive days. If the buyer becomes physically unable to use a substantial portion of the services for 30 or more consecutive days and wishes to cancel his contract, he must provide the health club with a signed statement from his doctor, physician assistant, or *advanced practice registered nurse practitioner* verifying that he is physically unable to use a substantial portion of the health club services for 30 or more consecutive days. Upon receipt of notice of the buyer's intent to cancel, the health club shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in § 59.1-297.1. In the case of disability, the health club may require the buyer to submit to a physical examination by a doctor, a physician assistant, or an *advanced practice registered nurse practitioner* agreeable to the buyer and the health club within 30 days of receipt of notice of the buyer's intent to cancel. The cost of the examination shall be borne by the health club.

B. The buyer shall notify the health club of cancellation in writing, by certified mail, return receipt requested, or personal delivery, to the address of the health club as specified in the health club contract.

C. If the customer has executed any credit or lien agreement with the health club or its representatives or agents to pay for all or part of health club services, any such negotiable instrument executed by the buyer shall be returned to the buyer within 30 days after such cancellation.

D. If the club agrees to allow a consumer to cancel for any other reason not outlined in this section, upon receipt of notice of cancellation by the buyer, the health club shall refund to the buyer funds paid or accepted in payment of the contract in an amount computed as prescribed in § 59.1-297.1.

#### § 59.1-298. Notice to buyer.

A copy of the executed health club contract shall be delivered to the buyer at the time the contract is executed. All health club contracts shall (i) be in writing, (ii) state the name and physical address of the health club, (iii) be signed by the buyer, (iv) designate the date on which the buyer actually signed the contract, (v) state the starting and expiration dates of the initial membership period, (vi) separately identify any initiation fee, (vii) either in the contract itself or in a separate notice provided to the buyer at the time the contract is executed, notify each buyer that the buyer should attempt to resolve with the health club any complaint the buyer has with the health club, and that the Virginia Department of Agriculture and Consumer Services regulates health clubs in the Commonwealth pursuant to the provisions of the Virginia Health Club Act, and (viii) contain the provisions set forth in § 59.1-297 under a conspicuous caption: "BUYER'S RIGHT TO CANCEL" that shall read substantially as follows:

If you wish to cancel this contract, you may cancel by making or delivering written notice to this health club. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of the third business day after you sign this contract. The notice must be delivered or mailed to \_\_\_\_\_ (Health club shall insert its name and mailing address).

If canceled within three business days, you will be entitled to a refund of all moneys paid. You may also cancel this contract if this club goes out of business or relocates and fails to provide comparable alternate facilities within five driving miles of the facility designated in this contract. You may also cancel if you become physically unable to use a substantial portion of the health club services for 30 or more consecutive days, and your estate may cancel in the event of your death. You must prove you are unable to use a substantial portion of the health club services by a doctor's, a physician assistant's, or *nurse practitioner's* *an advanced practice registered nurse's* certificate, and the health club may also require that you submit to a physical examination, within 30 days of the notice of cancellation, by a doctor, a physician assistant, or an *advanced practice registered nurse practitioner* agreeable to you and the health club. If you cancel after the three business days, the health club may retain or collect a portion of the contract price equal to the proportionate value of the services or use of facilities you have already received. Any refund due to you shall be paid within 30 days of the effective date of cancellation.

#### § 59.1-310.4. Warning signs.

A. A tanning facility shall post a warning sign in a conspicuous location where it is readily readable by persons entering the establishment. The sign shall contain the following warning:

DANGER: ULTRAVIOLET RADIATION

Repeated exposure to ultraviolet radiation may cause chronic sun damage to the skin characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician or *an advanced practice registered nurse practitioner* before using a sunlamp if you are using medications,

have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF AN ULTRAVIOLET SUNLAMP.

B. A tanning facility shall post a warning sign, one sign for each tanning device, in a conspicuous location that is readily readable to a person about to use the device. The sign shall contain the following:

**DANGER: ULTRAVIOLET RADIATION**

1. Follow the manufacturer's instructions for use of this device.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.

3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.

4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician or an *advanced practice registered nurse practitioner* before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN, YOU WILL NOT TAN FROM USE OF THIS DEVICE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Is permitted to retain and use his personal clothing and possessions as space permits unless to do

5348 so would infringe upon rights of other residents;

5349 14. Is encouraged to function at his highest mental, emotional, physical and social potential;

5350 15. Is free of physical or mechanical restraint except in the following situations and with appropriate  
5351 safeguards:

5352 a. As necessary for the facility to respond to unmanageable behavior in an emergency situation,  
5353 which threatens the immediate safety of the resident or others;

5354 b. As medically necessary, as authorized in writing by a physician, to provide physical support to a  
5355 weakened resident;

5356 16. Is free of prescription drugs except where medically necessary, specifically prescribed, and  
5357 supervised by the attending physician, physician assistant, or *advanced practice registered nurse*  
5358 ~~practitioner~~;

5359 17. Is accorded respect for ordinary privacy in every aspect of daily living, including but not limited  
5360 to the following:

5361 a. In the care of his personal needs except as assistance may be needed;

5362 b. In any medical examination or health-related consultations the resident may have at the facility;

5363 c. In communications, in writing or by telephone;

5364 d. During visitations with other persons;

5365 e. In the resident's room or portion thereof; residents shall be permitted to have guests or other  
5366 residents in their rooms unless to do so would infringe upon the rights of other residents; staff may not  
5367 enter a resident's room without making their presence known except in an emergency or in accordance  
5368 with safety oversight requirements included in regulations of the Board;

5369 f. In visits with his spouse; if both are residents of the facility they are permitted but not required to  
5370 share a room unless otherwise provided in the residents' agreements;

5371 18. Is permitted to meet with and participate in activities of social, religious, and community groups  
5372 at his discretion unless medically contraindicated as documented by his physician, physician assistant, or  
5373 *advanced practice registered nurse practitioner* in his medical record;

5374 19. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal  
5375 representative, prior to or at the time of admission and during his stay, that he should exercise whatever  
5376 due diligence he deems necessary with respect to information on any sex offenders registered pursuant  
5377 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including how to obtain such information. Upon request,  
5378 the assisted living facility shall assist the resident, prospective resident, or the legal representative of the  
5379 resident or prospective resident in accessing this information and provide the resident, prospective  
5380 resident, or the legal representative of the resident or prospective resident with printed copies of the  
5381 requested information; and

5382 20. Is informed, in writing and upon request, of whether the assisted living facility maintains the  
5383 minimum liability coverage, as established by the Board pursuant to subdivision A 10 of § 63.2-1805.

5384 B. If the resident is unable to fully understand and exercise the rights and responsibilities contained  
5385 in this section, the facility shall require that a responsible individual, of the resident's choice when  
5386 possible, designated in writing in the resident's record, be made aware of each item in this section and  
5387 the decisions that affect the resident or relate to specific items in this section; a resident shall be  
5388 assumed capable of understanding and exercising these rights unless a physician determines otherwise  
5389 and documents the reasons for such determination in the resident's record.

5390 C. The rights and responsibilities of residents shall be printed in at least 12-point type and posted  
5391 conspicuously in a public place in all assisted living facilities. The facility shall also post the name and  
5392 telephone number of the regional licensing supervisor of the Department, the Adult Protective Services'  
5393 toll-free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care  
5394 Ombudsman Program, any sub-state ombudsman program serving the area, and the toll-free number of  
5395 the Commonwealth's designated protection and advocacy system.

5396 D. The facility shall make its policies and procedures for implementing this section available and  
5397 accessible to residents, relatives, agencies, and the general public.

5398 E. The provisions of this section shall not be construed to restrict or abridge any right that any  
5399 resident has under law.

5400 F. Each facility shall provide appropriate staff training to implement each resident's rights included in  
5401 this section.

5402 G. The Board shall adopt regulations as necessary to carry out the full intent of this section.

5403 H. It shall be the responsibility of the Commissioner to ensure that the provisions of this section are  
5404 observed and implemented by assisted living facilities as a condition to the issuance, renewal, or  
5405 continuation of the license required by this article.

5406 **§ 63.2-1808.1. Life-sharing communities.**

5407 A. For the purposes of this section:

5408 "Life-sharing community" means a residential setting, operated by a nonprofit organization, that (i)  
5409 offers a safe environment in free standing, self-contained homes for residents that have been determined



by a licensed health-care professional as having at least one developmental disability; (ii) is an environment located in a community setting where residents participate in therapeutic activities including artistic crafts, stewardship of the land, and agricultural activities; (iii) consists of the residents as well as staff and volunteers who live together in residential homes; (iv) operates at a ratio of at least one staff member, volunteer, or supervising personnel for every three residents in each self-contained home household; and (v) has at least one supervisory staff member on premises to be responsible for the care, safety, and supervision of the residents at all times.

"Resident" means an individual who has been determined by a physician or *an advanced practice registered nurse practitioner* to have at least one developmental disability and who resides at the life-sharing community on a full-time basis.

"Volunteer" means an individual who resides in the life-sharing community on a full-time basis and who assists residents with their daily activities and receives no wages. A volunteer may receive a small stipend for personal expenses.

B. Any facility seeking to operate as a life-sharing community shall file with the Commissioner: (i) a statement of intent to operate as a life-sharing community; (ii) a certification that at the time of admission, a contract and written notice was provided to each resident and his legally authorized representative that includes a statement of disclosure that the facility is exempt from licensure as an "assisted living facility," and (iii) documentary evidence that such life-sharing community is a private nonprofit organization in accordance with 501(c)(3) of the Internal Revenue Code of 1954, as amended.

C. Upon filing an initial statement of intent to operate as a life-sharing community, and every two years thereafter, the life-sharing community shall certify that the local health department, building inspector, fire marshal, or other local official designated by the locality to enforce the Statewide Fire Prevention Code, and any other local official required by law to inspect the premises, have inspected the physical facilities of the life-sharing community and have determined that the facility is in compliance with all applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code and the Uniform Statewide Building Code.

D. Upon filing an initial statement of intent to operate as a life-sharing community, and every two years thereafter, the life-sharing community shall provide the Commissioner documentary evidence that:

1. Life-sharing community staff and volunteers have completed a training program that includes instruction in personal care of residents, house management, and therapeutic activities;
2. Volunteers and staff have completed first aid and Cardio-Pulmonary Resuscitation training;
3. Each resident's needs are evaluated using the Uniform Assessment Instrument, and Individual Service Plans are developed for each resident annually;
4. The residents of the life-sharing community are each 21 years of age or older;
5. A criminal background check through the Criminal Records Exchange has been completed for each (i) full-time salaried staff member and (ii) volunteer as defined in this section.

E. A residential facility operating as a life-sharing facility shall be exempt from the licensing requirements of Article 1 (§ 63.2-1800 et seq.) of Chapter 18 of Title 63.2 applicable to assisted living facilities.

F. The Commissioner may perform unannounced on-site inspections of a life-sharing community to determine compliance with the provisions of this section and to investigate any complaint that the life-sharing community is not in compliance with the provisions of this section, or to otherwise ensure the health, safety, and welfare of the life-sharing community residents. The Commissioner may revoke the exemption from licensure pursuant to this chapter for any life-sharing community for serious or repeated violation of the requirements of this section and order that the facility cease operations or comply with the licensure requirements of an assisted living facility. If a life-sharing community does not file the statement and documentary evidence required by this section, the Commissioner shall give reasonable notice to such life-sharing community of the nature of its noncompliance and may thereafter take action as he determines appropriate, including a suit to enjoin the operation of the life-sharing community.

G. All life-sharing communities shall provide access to their facilities and residents by staff of community services boards and behavioral health authorities as defined in § 37.2-100 for the purpose of (i) assessing or evaluating, (ii) providing case management or other services or assistance, or (iii) monitoring the care of individuals receiving services who are residing in the facility. Such staff or contractual agents also shall be given reasonable access to other facility residents who have previously requested their services.

H. Any residents of any life-sharing community shall be accorded the same rights and responsibilities as residents in assisted living facilities as provided in subsections A through F of § 63.2-1808.

I. A life-sharing community shall not admit or retain individuals with any of the conditions or care needs as provided in subsection C of § 63.2-1805.

5471 J. Notwithstanding § 63.2-1805, at the request of the resident, hospice care may be provided in a  
5472 life-sharing community under the same requirements for hospice programs provided in Article 7  
5473 (§ 32.1-162.1 et seq.) of Chapter 5 of Title 32.1 if the hospice program determines that such a program  
5474 is appropriate for the resident.

5475 **§ 63.2-2203. Grant application process; administration.**

5476 A. Grant applications shall be submitted by caregivers to the Department between February 1 and  
5477 May 1 of the year following the calendar year in which the care for a mentally or physically impaired  
5478 person was provided. Failure to meet the application deadline shall render the caregiver ineligible to  
5479 receive a grant for care provided during such calendar year. For filings by mail, the postmark  
5480 cancellation shall govern the date of the filing determination.

5481 B. Applications for grants shall include (i) proof of the caregiver's income and that of the caregiver's  
5482 spouse, if applicable; (ii) certification by the private physician, licensed physician assistant pursuant to  
5483 § 54.1-2951.2, or *advanced practice registered nurse practitioner* pursuant to § 54.1-2957.02 who has  
5484 screened the mentally or physically impaired person and found him to be eligible, in accordance with  
5485 relevant state regulations, for placement in an assisted-living facility or a nursing home or for receiving  
5486 community long-term care services; (iii) the mentally or physically impaired person's place of residence;  
5487 and (iv) such other relevant information as the Department may reasonably require. Any caregiver  
5488 applying for the grant pursuant to this chapter shall affirm, by signing and submitting his application for  
5489 a grant, that the mentally or physically impaired person for whom he provided care and the care  
5490 provided meet the criteria set forth in this chapter. As a condition of receipt of a grant, a caregiver shall  
5491 agree to make available to the Department for inspection, upon request, all relevant and applicable  
5492 documents to determine whether the caregiver meets the requirements for the receipt of grants as set  
5493 forth in this chapter, and to consent to the use by the Department of all relevant information relating to  
5494 eligibility for the requested grant.

5495 C. The Department shall review applications for grants and determine eligibility and the amount of  
5496 the grant to be allocated to each eligible caregiver. If the moneys in the Fund are less than the amount  
5497 of grants to which applicants are eligible for caregiver services provided in the preceding calendar year,  
5498 the moneys in the Fund shall be apportioned among eligible applicants pro rata, based upon the amount  
5499 of the grant for which an applicant is eligible and the amount of money in the Fund.

5500 D. The Department shall certify to the Comptroller the amount of grant to be allocated to eligible  
5501 caregiver applicants. Payments shall be made by check issued by the State Treasurer on warrant of the  
5502 Comptroller. The Comptroller shall not draw any warrants to issue checks for this program without a  
5503 specific legislative appropriation as specified in conditions and restrictions on expenditures in the  
5504 appropriation act.

5505 E. Actions of the Department relating to the review, allocation and awarding of grants shall be  
5506 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to  
5507 subdivision B 4 of § 2.2-4002. Decisions of the Department shall be final and not subject to review or  
5508 appeal.

5509 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

5510 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health  
5511 condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter,  
5512 or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers'  
5513 Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy  
5514 sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or  
5515 deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation  
5516 police officer who is a full-time sworn member of the enforcement division of the Department of  
5517 Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage  
5518 Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for  
5519 such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the  
5520 provisions of this chapter as provided in § 65.2-305, officer of the police force established and  
5521 maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force  
5522 established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the  
5523 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of  
5524 the police force established and maintained by the Virginia Port Authority; (xv) campus police officer  
5525 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public  
5526 institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn  
5527 member of the enforcement division of the Department of Motor Vehicles who has a documented  
5528 occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in  
5529 the line of government duty, that are covered by this title unless such presumption is overcome by a  
5530 preponderance of competent evidence to the contrary. For purposes of this subsection, an occupational  
5531 exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under  
5532 this subsection gave notice, written or otherwise, of the occupational exposure to his employer, and an

occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subdivision F 2.

2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

2. The presumptions described in subdivision B 1 shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions described in subdivision B 1.

F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons; (iii) included such

5594 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may  
5595 have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or  
5596 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective  
5597 until six months following such examinations, unless such persons entitled to invoke such presumption  
5598 can demonstrate a documented exposure during the six-month period.

5599 2. The presumptions described in subdivision B 1 shall apply to any person entitled to invoke them  
5600 for any death or disability occurring on or after March 12, 2020, caused by infection from the  
5601 COVID-19 virus, provided that for any such death or disability that occurred on or after March 12,  
5602 2020, and prior to December 31, 2022, and;

5603 a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed  
5604 physician, *an advanced practice registered nurse practitioner*, or a physician assistant after either (i) a  
5605 presumptive positive test or a laboratory-confirmed test for COVID-19 and presenting with signs and  
5606 symptoms of COVID-19 that required medical treatment, or (ii) presenting with signs and symptoms of  
5607 COVID-19 that required medical treatment absent a presumptive positive test or a laboratory-confirmed  
5608 test for COVID-19; or

5609 b. On or after July 1, 2020, and prior to December 31, 2022, the claimant received a positive  
5610 diagnosis of COVID-19 from a licensed physician, *an advanced practice registered nurse practitioner*, or  
5611 a physician assistant after a presumptive positive test or a laboratory-confirmed test for COVID-19 and  
5612 presented with signs and symptoms of COVID-19 that required medical treatment.

5613 3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them  
5614 for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19  
5615 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to  
5616 December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after  
5617 either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs  
5618 and symptoms of COVID-19 that required medical treatment.

5619 G. Persons making claims under this title who rely on such presumption shall, upon the request of  
5620 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)  
5621 conducted by physicians selected by such appointing authorities or governing bodies or their  
5622 representatives and (ii) consisting of such tests and studies as may reasonably be required by such  
5623 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the  
5624 election of such claimant, be present at such examination.

5625 **§ 65.2-605. Liability of employer for medical services ordered by Commission; fee schedules for**  
5626 **medical services; malpractice; assistants-at-surgery; coding.**

5627 A. As used in this section, unless the context requires a different meaning:

5628 "Burn center" means a treatment facility designated as a burn center pursuant to the verification  
5629 program jointly administered by the American Burn Association and the American College of Surgeons  
5630 and verified by the Commonwealth.

5631 "Categories of providers of fee scheduled medical services" means:

- 5632 1. Physicians exclusive of surgeons;  
5633 2. Surgeons;  
5634 3. Type One teaching hospitals;  
5635 4. Hospitals, exclusive of Type One teaching hospitals;  
5636 5. Ambulatory surgical centers;  
5637 6. Providers of outpatient medical services not covered by subdivision 1, 2, or 5; and  
5638 7. Purveyors of miscellaneous items and any other providers not described in subdivisions 1 through  
5639 6, as established by the Commission in regulations adopted pursuant to subsection C.

5640 "Codes" means, as applicable, CPT codes, HCPCS codes, DRG classifications, or revenue codes.

5641 "CPT codes" means the medical and surgical identifying codes using the Physicians' Current  
5642 Procedural Terminology published by the American Medical Association.

5643 "Diagnosis related group" or "DRG" means the system of classifying in-patient hospital stays adopted  
5644 for use with the Inpatient Prospective Payment System.

5645 "Fee scheduled medical service" means a medical service exclusive of a medical service provided in  
5646 the treatment of a traumatic injury or serious burn.

5647 "Health Care Common Procedure Coding System codes" or "HCPCS codes" means the medical  
5648 coding system, including all subsets of codes by alphabetical letter, used to report hospital outpatient  
5649 and certain physician services as published by the National Uniform Billing Committee, including  
5650 Temporary National Code (Non-Medicare) S0000-S-9999.

5651 "Level I or Level II trauma center" means a hospital in the Commonwealth designated by the Board  
5652 of Health as a Level I trauma center or a Level II trauma center pursuant to the Statewide Emergency  
5653 Medical Services Plan developed in accordance with § 32.1-111.3.

5654 "Medical community" means one of the following six regions of the Commonwealth:

- 5655 1. Northern region, consisting of the area for which three-digit ZIP code prefixes 201 and 220

through 223 have been assigned by the U.S. Postal Service.

2. Northwest region, consisting of the area for which three-digit ZIP code prefixes 224 through 229 have been assigned by the U.S. Postal Service.

3. Central region, consisting of the area for which three-digit ZIP code prefixes 230, 231, 232, 238, and 239 have been assigned by the U.S. Postal Service.

4. Eastern region, consisting of the area for which three-digit ZIP code prefixes 233 through 237 have been assigned by the U.S. Postal Service.

5. Near Southwest region, consisting of the area for which three-digit ZIP code prefixes 240, 241, 244, and 245 have been assigned by the U.S. Postal Service.

6. Far Southwest region, consisting of the area for which three-digit ZIP code prefixes 242, 243, and 246 have been assigned by the U.S. Postal Service.

The applicable community for providers of medical services rendered in the Commonwealth shall be determined by the zip code of the location where the services were rendered. The applicable community for providers of medical services rendered outside of the Commonwealth shall be determined by the zip code of the principal place of business of the employer if located in the Commonwealth or, if no such location exists, the zip code of the location where the Commission hearing regarding a dispute concerning the services would be conducted.

"Medical service" means any medical, surgical, or hospital service required to be provided to an injured person pursuant to this title.

"Medical service provided for the treatment of a serious burn" includes any professional service rendered during the dates of service of the admission or transfer to a burn center.

"Medical service provided for the treatment of a traumatic injury" includes any professional service rendered during the dates of service of the admission or transfer to a Level I or Level II trauma center.

"Miscellaneous items" means medical services provided under this title that are not included within subdivisions 1 through 6 of the definition of categories of providers of fee scheduled medical services.

"Miscellaneous items" does not include (i) pharmaceuticals that are dispensed by providers, other than hospitals or Type One teaching hospitals as part of inpatient or outpatient medical services, or dispensed as part of fee scheduled medical services at an ambulatory surgical center or (ii) durable medical equipment dispensed at retail.

"New type of technology" means an item resulting or derived from an advance in medical technology, including an implantable medical device or an item of medical equipment, that is supplied by a third party, provided that the item has been cleared or approved by the federal Food and Drug Administration (FDA) after the transition date and prior to the date of the provision of the medical service using the item.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Professional service" means any medical or surgical service required to be provided to an injured person pursuant to this title that is provided by a physician or any health care practitioner licensed, accredited, or certified to perform the service consistent with state law.

"Provider" means a person licensed by the Commonwealth to provide a medical service to a claimant under this title.

"Reimbursement objective" means the average of all reimbursements and other amounts paid to providers in the same category of providers of fee scheduled medical services in the same medical community for providing a fee scheduled medical service to a claimant under this title during the most recent period preceding the transition date for which statistically reliable data is available as determined by the Commission.

"Revenue codes" means a method of coding used by hospitals or health care systems to identify the department in which medical service was rendered to the patient or the type of item or equipment used in the delivery of medical services.

"Serious burn" means a burn for which admission or transfer to a burn center is medically necessary.

"Transition date" means the date the regulations of the Commission adopting initial Virginia fee schedules for medical services pursuant to subsection C become effective.

"Traumatic injury" means an injury for which admission or transfer to a Level I or Level II trauma center is medically necessary and that is assigned a DRG number of 003, 004, 011, 012, 013, 025 through 029, 082, 085, 453, 454, 455, 459, 460, 463, 464, 465, 474, 475, 483, 500, 507, 510, 515, 516, 570, 856, 857, 862, 901, 904, 907, 908, 955 through 959, 963, 998, or 999. Claimants who die in an emergency room of trauma or burn before admission shall be deemed to be claimants who incurred a traumatic injury.

"Type One teaching hospital" means a hospital that was a state-owned teaching hospital on January 1, 1996.

"Virginia fee schedule" means a schedule of maximum fees for fee scheduled medical services for

5717 the medical community where the fee scheduled medical service is provided, as initially adopted by the  
5718 Commission pursuant to subsection C and as adjusted as provided in subsection D.

5719 B. The pecuniary liability of the employer for a:

5720 1. Medical, surgical, and hospital service herein required when ordered by the Commission that is  
5721 provided to an injured person prior to the transition date, regardless of the date of injury, shall be  
5722 limited absent a contract providing otherwise, to such charges as prevail in the same community for  
5723 similar treatment when such treatment is paid for by the injured person. As used in this subdivision,  
5724 "same community" for providers of medical services rendered outside of the Commonwealth shall be  
5725 deemed to be the principal place of business of the employer if located in the Commonwealth or, if no  
5726 such location exists, the location where the Commission hearing regarding the dispute is conducted;

5727 2. Fee scheduled medical service provided on or after the transition date, regardless of the date of  
5728 injury, shall be limited to:

5729 a. The amount provided for the payment for the fee scheduled medical service as set forth in a  
5730 contract under which the provider has agreed to accept a specified amount in payment for the service  
5731 provided, which amount may be less than or exceed the maximum amount for the service as set forth in  
5732 the applicable Virginia fee schedule;

5733 b. In the absence of a contract described in subdivision 2 a, the lesser of the billing amount or the  
5734 amount for the fee scheduled medical service as set forth in the applicable Virginia fee schedule that is  
5735 in effect on the date the service is provided, subject to an increase approved by the Commission  
5736 pursuant to subsection H; or

5737 c. In the absence of (i) a contract described in subdivision 2 a and (ii) a provision in a Virginia fee  
5738 schedule that sets forth a maximum amount for the medical service on the date it is provided, the  
5739 maximum amount determined by the Commission as provided in subsection E; and

5740 3. Medical service provided on or after the transition date for the treatment of a traumatic injury or  
5741 serious burn, regardless of the date of injury, shall be limited to:

5742 a. The amount provided for the payment for the medical service provided for the treatment of the  
5743 traumatic injury or serious burn as set forth in a contract under which the provider has agreed to accept  
5744 a specified amount in payment for the service provided, which amount may be less than or exceed the  
5745 maximum amount for the service calculated pursuant to subdivision 3 b; or

5746 b. In the absence of a contract described in subdivision 3 a, an amount equal to 80 percent of the  
5747 provider's charge for the service based on the provider's charge master or schedule of fees; however, if  
5748 the compensability under this title of a claim for traumatic injury or serious burn is contested and after a  
5749 hearing on the claim on its merits or after abandonment of a defense by the employer or insurance  
5750 carrier, benefits for medical services are awarded and inure to the benefit of a third-party insurance  
5751 carrier or health care provider and the Commission awards to the claimant's attorney a fee pursuant to  
5752 subsection B of § 65.2-714, then the pecuniary liability of the employer for the service provided shall be  
5753 limited to 100 percent of the provider's charge for the service based on the provider's charge master or  
5754 schedule of fees.

5755 C. The Commission shall adopt regulations establishing initial Virginia fee schedules for fee  
5756 scheduled medical services as follows:

5757 1. The Commission's regulations that establish the initial Virginia fee schedules shall be effective on  
5758 January 1, 2018.

5759 2. Separate initial Virginia fee schedules shall be established for fee scheduled medical services (i)  
5760 provided by each category of providers of fee scheduled medical services and (ii) within each of the  
5761 medical communities to reflect the variations among the medical communities as provided in subdivision  
5762 3, for each category of providers of fee scheduled medical services.

5763 3. The Virginia fee schedules for each medical community shall reflect variations among medical  
5764 communities in (i) all reimbursements and other amounts paid to providers for fee scheduled medical  
5765 services among the medical communities and (ii) the extent to which the number of providers within the  
5766 various medical communities is adequate to meet the needs of injured workers.

5767 4. In establishing the initial Virginia fee schedules for fee scheduled medical services, the  
5768 Commission shall establish the maximum fee for each fee scheduled medical service at a level that  
5769 approximates the reimbursement objective for each category of providers of fee scheduled medical  
5770 services among the medical communities. The Commission shall retain a firm with nationwide  
5771 experience and actuarial expertise in the development of workers' compensation fee schedules to assist  
5772 the Commission in establishing the initial Virginia fee schedules. The Commission shall consult with the  
5773 regulatory advisory panel established pursuant to subdivision F 2 prior to retaining such firm. Such firm  
5774 shall be retained to assist the Commission in developing the Virginia fee schedules by recommending a  
5775 methodology that will provide, at reasonable cost to the Commission, statistically valid estimates of the  
5776 reimbursement objective for fee scheduled medical services within the medical communities, based on  
5777 available data or, if the necessary data is not available, by recommending the optimal methodology for  
5778 obtaining the necessary data. The Commission shall consult with the regulatory advisory panel prior to

adopting any such methodology. Such methodology may, but is not required to, be based on applicable codes. The estimates of the reimbursement objective for fee scheduled medical services shall be derived from data on all reimbursements and other amounts paid to providers for fee scheduled medical services provided pursuant to this title during 2014 and 2015, to the extent available.

D. The Commission shall review Virginia fee schedules during the year that follows the transition date and biennially thereafter and, if necessary, adjust the Virginia fee schedules in order to address (i) inflation or deflation as reflected in the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) for the South as published by the Bureau of Labor Statistics of the U.S. Department of Labor; (ii) access to fee scheduled medical services; (iii) errors in calculations made in preparing the Virginia fee schedules; and (iv) incentives for providers. The Commission shall not adjust a Virginia fee schedule in a manner that reduces fees on an existing schedule unless such a reduction is based on deflation or a finding by the Commission that advances in technology or errors in calculations made in preparing the Virginia fee schedules justify a reduction in fees.

E. The maximum pecuniary liability of the employer for a fee scheduled medical service that is not included in a Virginia fee schedule when it is provided shall be determined by the Commission. The Commission's determination of the employer's maximum pecuniary liability for such fee scheduled medical service shall be effective until the Commission sets a maximum fee for the fee scheduled medical service and incorporates such maximum fee into an adjusted Virginia fee schedule adopted pursuant to subsection D. If the fee scheduled medical service is not included in a Virginia fee schedule because it is:

1. A new type of technology, the employer's maximum pecuniary liability shall not exceed 130 percent of the provider's invoiced cost for such device, as evidenced by a copy of the invoice. If the new type of technology has not been cleared or approved by the FDA prior to such date, then the provider shall not be entitled to payment or reimbursement therefor unless the employer or its insurer agree; or

2. A new type of procedure that has not been assigned a billing code, the employer's maximum pecuniary liability shall not exceed 80 percent of the provider's charge for the service based on the provider's charge master or schedule of fees, provided the employer and the provider mutually agree to the provision of such procedure.

F. The Commission shall:

1. Provide public access to information regarding the Virginia fee schedules for medical services, by categories of providers of fee scheduled medical services and for each medical community, through the Commission's website. No information provided on the website shall be provider-specific or disclose or release the identity of any provider; and

2. Utilize a 10-member regulatory advisory panel to assist in the development of regulations adopting initial Virginia fee schedules pursuant to subsection C, in adjusting initial Virginia fee schedules pursuant to subsection D, and on all matters involving or related to the fee schedule as deemed necessary by the Commission. One member of the regulatory advisory panel shall be selected by the Commission from each of the following: (i) the American Insurance Association; (ii) the Property and Casualty Insurers Association of America; (iii) the Virginia Self-Insurers Association, Inc.; (iv) the Medical Society of Virginia; (v) the Virginia Hospital and Healthcare Association; (vi) a Type One teaching hospital; (vii) the Virginia Orthopaedic Society; (viii) the Virginia Trial Lawyers Association; (ix) a group self-insurance association representing employers; and (x) a local government group self-insurance pool formed under Chapter 27 (§ 15.2-2700 et seq.) of Title 15.2. The Commission shall meet with the regulatory advisory panel and consider the recommendations of its members in its development of the Virginia fee schedules pursuant to subsections C and D.

G. The Commission's retaining of a firm with nationwide experience and actuarial expertise in the development of workers' compensation fee schedules to assist the Commission in developing the Virginia fee schedules pursuant to subsections C and D shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), provided the Commission shall issue a request for proposals that requires submission by a bidder of evidence that it satisfies the conditions for eligibility established in this subsection and in subdivision C 4. Records and information relating to payments or reimbursements to providers that is obtained by or furnished to the Commission by such firm or any other person shall (i) be for the exclusive use of the Commission in the course of the Commission's development of fee schedules and related regulations and (ii) shall remain confidential and shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

H. When the total charges of a hospital or Type One teaching hospital, based on such provider's charge master, for inpatient hospital services covered by a DRG code exceed the charge outlier threshold, then the Commission shall establish the maximum fee for such scheduled inpatient hospital services at an amount equal to the total of (i) the maximum fee for the service as set forth in the applicable fee schedule and (ii) initially equal to 80 percent of the provider's total charges for the service

5840 in excess of the charge outlier threshold. The charge outlier threshold for such services initially shall  
5841 equal 300 percent of the maximum fee for the service set forth in the applicable fee schedule; however,  
5842 the Commission, in consultation with the firm retained pursuant to subdivision C 4, is authorized on a  
5843 biennial basis to adjust such percentage if it finds that the number of such claims for which the total  
5844 charges of the hospital or Type One teaching hospital exceed the charge outlier threshold is less than  
5845 five percent or to increase such percentage if such number is greater than 10 percent of all such claims.

5846 I. No provider shall use a different charge master or schedule of fees for any medical service  
5847 provided under this title than the provider uses for health care services provided to patients who are not  
5848 claimants under this title.

5849 J. The employer shall not be liable in damages for malpractice by a physician or surgeon furnished  
5850 by him pursuant to the provisions of § 65.2-603, but the consequences of any such malpractice shall be  
5851 deemed part of the injury resulting from the accident and shall be compensated for as such.

5852 K. The Commission shall determine the number and geographic area of communities across the  
5853 Commonwealth. In establishing the communities, the Commission shall consider the ability to obtain  
5854 relevant data based on geographic area and such other criteria as are consistent with the purposes of this  
5855 title. The Commission shall use the communities established pursuant to this subsection in determining  
5856 charges that prevail in the same community for treatment provided prior to the transition date.

5857 L. The pecuniary liability of the employer for treatment of a medical service that is rendered on or  
5858 after July 1, 2014, by:

5859 1. ~~A~~ *An advanced practice registered nurse practitioner* or physician assistant serving as an  
5860 assistant-at-surgery shall be limited to no more than 20 percent of the reimbursement due to the  
5861 physician performing the surgery; and

5862 2. An assistant surgeon in the same specialty as the primary surgeon shall be limited to no more than  
5863 50 percent of the reimbursement due to the primary physician performing the surgery.

5864 M. Multiple procedures completed on a single surgical site associated with a medical service  
5865 rendered on or after July 1, 2014, shall be coded and billed with appropriate CPT codes and modifiers  
5866 and paid according to the National Correct Coding Initiative rules and the CPT codes as in effect at the  
5867 time the health care was provided to the claimant.

5868 N. The CPT code and National Correct Coding Initiative rules, as in effect at the time a medical  
5869 service was provided to the claimant, shall serve as the basis for processing a health care provider's  
5870 billing form or itemization for such items as global and comprehensive billing and the unbundling of  
5871 medical services. Hospital in-patient medical services shall be coded and billed through the International  
5872 Statistical Classification of Diseases and Related Health Problems as in effect at the time the medical  
5873 service was provided to the claimant.