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HOUSE BILL NO. 1498

Offered January 19, 2024

A *BILL to amend and reenact §§ 4.1-1600, 8.01-225.03, 19.2-389, 32.1-127, as it is currently effective and as it shall become effective, 35.1-1, 36-99.5:1, 44-146.19, 51.5-182, 51.5-183, 54.1-3408, 63.2-100, 63.2-1700, 63.2-1701, 63.2-1705, 63.2-1706, 63.2-1708, 63.2-1709, 63.2-1709.2, 63.2-1710, 63.2-1710.2 through 63.2-1713, 63.2-1720, 63.2-1722, 63.2-1728 through 63.2-1731, and 63.2-1733 of the Code of Virginia, relating to adult day care centers; name change.*

Patron—Willett

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-1600, 8.01-225.03, 19.2-389, 32.1-127, as it is currently effective and as it shall become effective, 35.1-1, 36-99.5:1, 44-146.19, 51.5-182, 51.5-183, 54.1-3408, 63.2-100, 63.2-1700, 63.2-1701, 63.2-1705, 63.2-1706, 63.2-1708, 63.2-1709, 63.2-1709.2, 63.2-1710, 63.2-1710.2 through 63.2-1713, 63.2-1720, 63.2-1722, 63.2-1728 through 63.2-1731, and 63.2-1733 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-1600. Definitions.

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

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Dispense" means the same as that term is defined in § 54.1-3300.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmacist" means the same as that term is defined in § 54.1-3300.

"Pharmacy intern" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse practitioner jointly licensed by the Boards of Nursing and Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written

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59 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by
60 such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of
61 § 4.1-1601.

62 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been
63 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced
64 from the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the
65 mature stalks; or (iii) oil or cake made from the seeds of the plant.

66 **§ 8.01-225.03. Certain immunity for certain hospices, home care organizations, private**
67 **providers, assisted living facilities, and adult day centers during a disaster under specific**
68 **circumstances.**

69 A. As used in this section:

70 "Disaster" or "emergency" means a public health emergency related to the COVID-19 virus declared
71 by the Governor pursuant to § 44-146.17 and set forth in Executive Order 51 (2020) on March 12, 2020.

72 B. In the absence of gross negligence or willful misconduct, any (i) hospice licensed pursuant to
73 § 32.1-162.3, (ii) home care organization licensed pursuant to § 32.1-162.9, (iii) private provider licensed
74 by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403
75 et seq.) of Chapter 4 of Title 37.2, (iv) assisted living facility licensed pursuant to § 63.2-1701, or (v)
76 adult day care center licensed pursuant to § 63.2-1701 that delivers care to or withholds care from a
77 patient, resident, or person receiving services who is diagnosed as being or is believed to be infected
78 with the COVID-19 virus shall not be liable for any injury or wrongful death of such patient, resident,
79 or person receiving services arising from the delivery or withholding of care when the emergency and
80 subsequent conditions caused by the emergency result in a lack of resources, attributable to the disaster,
81 that render such hospice, home care organization, private provider licensed by the Department of
82 Behavioral Health and Developmental Services, assisted living facility, or adult day care center unable to
83 provide the level or manner of care that otherwise would have been required in the absence of the
84 emergency and that resulted in the injury or wrongful death at issue.

85 C. The immunity provided by this section shall be in addition to, and not be in lieu of, any
86 immunities provided in other state or federal law, including §§ 8.01-225 and 44-146.23.

87 D. The immunity provided by this section shall only apply to causes of action arising between March
88 12, 2020, and such time as the declaration of a state of emergency related to the COVID-19 virus set
89 forth in Executive Order 51 (2020) is no longer in effect.

90 **§ 19.2-389. Dissemination of criminal history record information.**

91 A. Criminal history record information shall be disseminated, whether directly or through an
92 intermediary, only to:

93 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
94 purposes of the administration of criminal justice and the screening of an employment application or
95 review of employment by a criminal justice agency with respect to its own employees or applicants, and
96 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
97 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
98 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
99 purposes of this subdivision, criminal history record information includes information sent to the Central
100 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
101 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
102 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
103 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
104 Commonwealth for the purposes of the administration of criminal justice;

105 2. Such other individuals and agencies that require criminal history record information to implement
106 a state or federal statute or executive order of the President of the United States or Governor that
107 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
108 conduct, except that information concerning the arrest of an individual may not be disseminated to a
109 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
110 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
111 pending;

112 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
113 services required for the administration of criminal justice pursuant to that agreement which shall
114 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
115 security and confidentiality of the data;

116 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
117 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
118 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
119 security of the data;

120 5. Agencies of state or federal government that are authorized by state or federal statute or executive

order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth

182 in § 4.1-103.1;

183 18. The State Board of Elections and authorized officers and employees thereof and general registrars
184 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
185 voter registration, limited to any record of felony convictions;

186 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
187 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
188 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,
189 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
190 evaluation, treatment, or discharge planning;

191 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
192 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
193 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

194 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
195 Department of Education, or the Department of Behavioral Health and Developmental Services for the
196 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
197 services;

198 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
199 Department for the purpose of determining an individual's fitness for employment pursuant to
200 departmental instructions;

201 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
202 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
203 records information on behalf of such governing boards or administrators pursuant to a written
204 agreement with the Department of State Police;

205 24. Public institutions of higher education and nonprofit private institutions of higher education for
206 the purpose of screening individuals who are offered or accept employment;

207 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
208 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
209 higher education, for the purpose of assessing or intervening with an individual whose behavior may
210 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
211 history record information obtained pursuant to this section or otherwise use any record of an individual
212 beyond the purpose that such disclosure was made to the threat assessment team;

213 26. Executive directors of community services boards or the personnel director serving the
214 community services board for the purpose of determining an individual's fitness for employment,
215 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
216 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
217 under contract with the community services board to serve in a direct care position on behalf of the
218 community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

219 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
220 determining an individual's fitness for employment, approval as a sponsored residential service provider,
221 permission to enter into a shared living arrangement with a person receiving medical assistance services
222 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
223 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
224 37.2-506.1, and 37.2-607;

225 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
226 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
227 name, address, demographics and social security number of the data subject shall be released;

228 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
229 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
230 purpose of determining if any applicant who accepts employment in any direct care position or requests
231 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
232 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
233 under contract with the provider to serve in a direct care position has been convicted of a crime that
234 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
235 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
236 37.2-607;

237 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
238 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
239 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

240 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
241 Committee for Courts of Justice for the purpose of determining if any person being considered for
242 election to any judgeship has been convicted of a crime;

243 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of

determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

47. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children; and

48. Other entities as otherwise provided by law.

305 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
306 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
307 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
308 designated in the order on whom a report has been made under the provisions of this chapter.

309 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
310 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
311 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
312 copy of conviction data covering the person named in the request to the person making the request;
313 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
314 making of such request. A person receiving a copy of his own conviction data may utilize or further
315 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
316 subject, the person making the request shall be furnished at his cost a certification to that effect.

317 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
318 section shall be limited to the purposes for which it was given and may not be disseminated further,
319 except as otherwise provided in subdivision A 46.

320 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
321 history record information for employment or licensing inquiries except as provided by law.

322 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
323 Exchange prior to dissemination of any criminal history record information on offenses required to be
324 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
325 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
326 where time is of the essence and the normal response time of the Exchange would exceed the necessary
327 time period. A criminal justice agency to whom a request has been made for the dissemination of
328 criminal history record information that is required to be reported to the Central Criminal Records
329 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
330 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
331 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

332 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
333 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
334 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

335 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
336 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
337 for any offense specified in § 63.2-1720.

338 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
339 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
340 definition of barrier crime in § 19.2-392.02.

341 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
342 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
343 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
344 the request to the employer or prospective employer making the request, provided that the person on
345 whom the data is being obtained has consented in writing to the making of such request and has
346 presented a photo-identification to the employer or prospective employer. In the event no conviction data
347 is maintained on the person named in the request, the requesting employer or prospective employer shall
348 be furnished at his cost a certification to that effect. The criminal history record search shall be
349 conducted on forms provided by the Exchange.

350 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
351 information pursuant to the rules of court for obtaining discovery or for review by the court.

352 **§ 32.1-127. (Effective until July 1, 2025) Regulations.**

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

358 B. Such regulations:

359 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing
360 homes and certified nursing facilities to ensure the environmental protection and the life safety of its
361 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes
362 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and
363 certified nursing facilities, except those professionals licensed or certified by the Department of Health
364 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing
365 services to patients in their places of residence; and (v) policies related to infection prevention, disaster
366 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

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

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

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

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

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

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

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

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

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

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or

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

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

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration, reregistration, or verification of registration information of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

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

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results

of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish a security plan. Such security plan shall be developed using standards established by the International Association for Healthcare Security and Safety or other industry standard and shall be based on the results of a security risk assessment of each emergency department location of the hospital and shall include the presence of at least one off-duty law-enforcement officer or trained security personnel who is present in the emergency department at all times as indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based on identified risks for the emergency department, including trauma level designation, overall volume, volume of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in the community, in consultation with the emergency department medical director and nurse director. The security plan shall also outline training requirements for security personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques, appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also include instruction on safely addressing situations involving patients, family members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through completion of the Department of Criminal Justice Services minimum training standards for auxiliary police officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at least one off-duty law-enforcement officer or trained security personnel be present at all times in the emergency department if the hospital demonstrates that a different level of security is necessary and appropriate for any of its emergency departments based upon findings in the security risk assessment;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan;

24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home, including beds located in a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health;

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical

551 procedure for which the patient can reasonably be expected to require outpatient physical therapy as a
552 follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical
553 therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to
554 being discharged from the hospital;

555 26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer
556 medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued
557 a valid written certification for the use of cannabis oil in accordance with § 4.1-1601;

558 27. Shall require each hospital with an emergency department to establish a protocol for the
559 treatment and discharge of individuals experiencing a substance use-related emergency, which shall
560 include provisions for (i) appropriate screening and assessment of individuals experiencing substance
561 use-related emergencies to identify medical interventions necessary for the treatment of the individual in
562 the emergency department and (ii) recommendations for follow-up care following discharge for any
563 patient identified as having a substance use disorder, depression, or mental health disorder, as
564 appropriate, which may include, for patients who have been treated for substance use-related
565 emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or
566 other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge
567 or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist
568 used for overdose reversal, including information about accessing naloxone or other opioid antagonist
569 used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the
570 hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid
571 antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such
572 protocols may also provide for referrals of individuals experiencing a substance use-related emergency to
573 peer recovery specialists and community-based providers of behavioral health services, or to providers of
574 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

575 28. During a public health emergency related to COVID-19, shall require each nursing home and
576 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with
577 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for
578 Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the
579 conditions, including conditions related to the presence of COVID-19 in the nursing home, certified
580 nursing facility, and community, under which in-person visits will be allowed and under which in-person
581 visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which
582 in-person visitors will be required to comply to protect the health and safety of the patients and staff of
583 the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or
584 video technology, and the staff support necessary to ensure visits are provided as required by this
585 subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a
586 technology failure, service interruption, or documented emergency that prevents visits from occurring as
587 required by this subdivision. Such protocol shall also include (a) a statement of the frequency with
588 which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least
589 once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's
590 personal representative to waive or limit visitation, provided that such waiver or limitation is included in
591 the patient's health record; and (c) a requirement that each nursing home and certified nursing facility
592 publish on its website or communicate to each patient or the patient's authorized representative, in
593 writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits
594 to patients as required by this subdivision;

595 29. Shall require each hospital, nursing home, and certified nursing facility to establish and
596 implement policies to ensure the permissible access to and use of an intelligent personal assistant
597 provided by a patient, in accordance with such regulations, while receiving inpatient services. Such
598 policies shall ensure protection of health information in accordance with the requirements of the federal
599 Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended.
600 For the purposes of this subdivision, "intelligent personal assistant" means a combination of an
601 electronic device and a specialized software application designed to assist users with basic tasks using a
602 combination of natural language processing and artificial intelligence, including such combinations
603 known as "digital assistants" or "virtual assistants";

604 30. During a declared public health emergency related to a communicable disease of public health
605 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to
606 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or
607 sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for
608 Medicare and Medicaid Services and subject to compliance with any executive order, order of public
609 health, Department guidance, or any other applicable federal or state guidance having the effect of
610 limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits
611 to be conducted virtually using interactive audio or video technology. Any such protocol may require the
612 person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the

hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; and

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided.

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

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

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

§ 32.1-127. (Effective July 1, 2025) Regulations.

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

B. Such regulations:

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

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

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

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's

674 personnel on donation issues, the proper review of death records to improve identification of potential
675 donors, and the proper procedures for maintaining potential donors while necessary testing and
676 placement of potential donated organs, tissues, and eyes takes place. This process shall be followed,
677 without exception, unless the family of the relevant decedent or patient has expressed opposition to
678 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition,
679 and no donor card or other relevant document, such as an advance directive, can be found;

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

682 6. Shall also require that each licensed hospital develop and implement a protocol requiring written
683 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall
684 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother
685 and the infant be made and documented. Appropriate referrals may include, but need not be limited to,
686 treatment services, comprehensive early intervention services for infants and toddlers with disabilities
687 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C.
688 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to
689 the extent possible, the other parent of the infant and any members of the patient's extended family who
690 may participate in the follow-up care for the mother and the infant. Immediately upon identification,
691 pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify,
692 subject to federal law restrictions, the community services board of the jurisdiction in which the woman
693 resides to appoint a discharge plan manager. The community services board shall implement and manage
694 the discharge plan;

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

697 8. Shall require that each licensed hospital establish a protocol relating to the rights and
698 responsibilities of patients which shall include a process reasonably designed to inform patients of such
699 rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to
700 patients on admission, shall be consistent with applicable federal law and regulations of the Centers for
701 Medicare and Medicaid Services;

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

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

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

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

722 13. Shall require that each nursing home and certified nursing facility register with the Department of
723 State Police to receive notice of the registration, reregistration, or verification of registration information
724 of any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant
725 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the
726 home or facility is located, pursuant to § 9.1-914;

727 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,
728 whether a potential patient is required to register with the Sex Offender and Crimes Against Minors
729 Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the
730 potential patient will have a length of stay greater than three days or in fact stays longer than three
731 days;

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

simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish a security plan. Such security plan shall be developed using standards established by the International Association for Healthcare Security and Safety or other industry standard and shall be based on the results of a security risk assessment of each emergency department location of the hospital and shall include the presence of at least one off-duty law-enforcement officer or trained security personnel who is present in the

797 emergency department at all times as indicated to be necessary and appropriate by the security risk
798 assessment. Such security plan shall be based on identified risks for the emergency department,
799 including trauma level designation, overall volume, volume of psychiatric and forensic patients, incidents
800 of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in
801 the community, in consultation with the emergency department medical director and nurse director. The
802 security plan shall also outline training requirements for security personnel in the potential use of and
803 response to weapons, defensive tactics, de-escalation techniques, appropriate physical restraint and
804 seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also
805 include instruction on safely addressing situations involving patients, family members, or other persons
806 who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are
807 experiencing a mental health crisis. Such training requirements may be satisfied through completion of
808 the Department of Criminal Justice Services minimum training standards for auxiliary police officers as
809 required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at least
810 one off-duty law-enforcement officer or trained security personnel be present at all times in the
811 emergency department if the hospital demonstrates that a different level of security is necessary and
812 appropriate for any of its emergency departments based upon findings in the security risk assessment;

813 23. Shall require that each hospital establish a protocol requiring that, before a health care provider
814 arranges for air medical transportation services for a patient who does not have an emergency medical
815 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized
816 representative with written or electronic notice that the patient (i) may have a choice of transportation by
817 an air medical transportation provider or medically appropriate ground transportation by an emergency
818 medical services provider and (ii) will be responsible for charges incurred for such transportation in the
819 event that the provider is not a contracted network provider of the patient's health insurance carrier or
820 such charges are not otherwise covered in full or in part by the patient's health insurance plan;

821 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in
822 an existing hospital or nursing home, including beds located in a temporary structure or satellite location
823 operated by the hospital or nursing home, provided that the ability remains to safely staff services across
824 the existing hospital or nursing home, (i) for a period of no more than the duration of the
825 Commissioner's determination plus 30 days when the Commissioner has determined that a natural or
826 man-made disaster has caused the evacuation of a hospital or nursing home and that a public health
827 emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than
828 the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the
829 Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency
830 order for the purpose of suppressing a nuisance dangerous to public health or a communicable,
831 contagious, or infectious disease or other danger to the public life and health;

832 25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical
833 procedure for which the patient can reasonably be expected to require outpatient physical therapy as a
834 follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical
835 therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to
836 being discharged from the hospital;

837 26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer
838 medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued
839 a valid written certification for the use of cannabis oil in accordance with § 4.1-1601;

840 27. Shall require each hospital with an emergency department to establish a protocol for the
841 treatment and discharge of individuals experiencing a substance use-related emergency, which shall
842 include provisions for (i) appropriate screening and assessment of individuals experiencing substance
843 use-related emergencies to identify medical interventions necessary for the treatment of the individual in
844 the emergency department and (ii) recommendations for follow-up care following discharge for any
845 patient identified as having a substance use disorder, depression, or mental health disorder, as
846 appropriate, which may include, for patients who have been treated for substance use-related
847 emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or
848 other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge
849 or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist
850 used for overdose reversal, including information about accessing naloxone or other opioid antagonist
851 used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the
852 hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid
853 antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such
854 protocols may also provide for referrals of individuals experiencing a substance use-related emergency to
855 peer recovery specialists and community-based providers of behavioral health services, or to providers of
856 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

857 28. During a public health emergency related to COVID-19, shall require each nursing home and
858 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with

guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions, including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and community, under which in-person visits will be allowed and under which in-person visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be required to comply to protect the health and safety of the patients and staff of the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility;

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided; and

32. Shall require each certified nursing facility eligible to participate in the Virginia Medicaid Nursing Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of Assembly of 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse staffing hours per resident per day on average as determined annually by the Department of Medical Assistance Services for use in the VBP program, utilizing job codes for the calculation of total nurse staffing hours per resident per day following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for similar purposes and including certified nursing assistants, licensed practical nurses, and registered nurses. No additional reporting shall be required by a certified nursing facility under this subdivision.

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

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

920 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail,
921 return receipt requested, each recipient who received treatment from a known contaminated lot at the
922 individual's last known address.

923 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the
924 provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

925 **§ 35.1-1. Definitions.**

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

927 "Bed-and-breakfast operation" means a residential-type establishment that provides (i) two or more
928 rental accommodations for transient guests and food service to a maximum of 18 transient guests on any
929 single day for five or more days in any calendar year or (ii) at least one rental accommodation for
930 transient guests and food service to a maximum of 18 transient guests on any single day for 30 or more
931 days in any calendar year.

932 "Board" or "State Board" means the State Board of Health.

933 "Campground" means any area, place, parcel, or tract of land, by whatever name called, on which
934 three or more campsites are occupied or intended for occupancy, or facilities are established or
935 maintained, wholly or in part, for the accommodation of camping units for periods of overnight or
936 longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or
937 conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp,
938 recreation camp, family campground, camping resort, or camping community. "Campground" does not
939 mean a summer camp, migrant labor camp, or park for manufactured homes as defined in this section
940 and in §§ 32.1-203 and 36-85.3, or a construction camp, storage area for unoccupied camping units, or
941 property upon which the individual owner may choose to camp and not be prohibited or encumbered by
942 covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

943 "Camping unit" means any device or vehicular type structure for use as temporary living quarters or
944 shelter during periods of recreation, vacation, leisure time, or travel, including any tent, tent trailer,
945 travel trailer, camping trailer, pickup camper, or motor home.

946 "Campsite" means any plot of ground within a campground used or intended for occupation by the
947 camping unit.

948 "Certified food protection manager" means a person who has demonstrated proficiency in food safety
949 issues, regulations, and techniques in maintaining a safe-food environment by passing a test and
950 receiving a certification as part of a program that is accredited by the Board.

951 "Commissioner" means the State Health Commissioner.

952 "Department" means the State Department of Health.

953 "Hotel" means any place offering to the public for compensation transitory lodging or sleeping
954 accommodations, overnight or otherwise, including facilities known by varying nomenclatures or
955 designations as hotels, motels, travel lodges, tourist homes, or hostels.

956 "Person" means an individual, corporation, partnership, association, or any other legal entity.

957 "Restaurant" means:

958 1. Any place where food is prepared for service to the public on or off the premises, or any place
959 where food is served, including lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns,
960 delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and
961 nursing homes, dining accommodations of public and private schools and institutions of higher
962 education, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68.

963 2. Any place or operation that prepares or stores food for distribution to persons of the same
964 business operation or of a related business operation for service to the public, including operations
965 preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile
966 points of service.

967 3. Mobile points of service to which food is distributed by a place or operation described in
968 subdivision 2 unless the point of service and of consumption is in a private residence.

969 4. Any place or operation that prepares or stores food for distribution to child or adult day care
970 centers or schools, regardless of whether the receiving day care center or school holds a restaurant
971 license.

972 "Restaurant" does not include any place manufacturing packaged or canned foods that are distributed
973 to grocery stores or other similar retailers for sale to the public.

974 "Summer camp" means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if
975 operated as one place or establishment, or any other place or establishment, public or private, together
976 with the land and waters adjacent thereto, that is operated or used in this Commonwealth for the
977 entertainment, education, recreation, religious instruction or activities, physical education, or health of
978 persons under 18 years of age who are not related to the operator of such place or establishment by
979 blood or marriage within the third degree of consanguinity or affinity, if 12 or more such persons at any
980 one time are accommodated, gratuitously or for compensation, overnight and during any portion of more
981 than two consecutive days.

§ 36-99.5:1. Smoke alarms and other fire detection and suppression systems in assisted living facilities, adult day centers and nursing homes and facilities.

A. Battery operated or AC powered smoke alarm devices shall be installed in all assisted living facilities and adult day centers licensed by the Department of Social Services, regardless of when the building was constructed. The location and installation of the smoke alarms shall be determined by the Building Code.

The licensee shall obtain a certificate of compliance from the building official of the locality in which the facility or center is located, or in the case of state-owned buildings, from the Department of General Services.

The licensee shall maintain the smoke alarm devices in good working order.

B. The Board of Housing and Community Development shall promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) establishing standards for requiring (i) smoke alarms and (ii) such other fire detection and suppression systems as deemed necessary by the Board to increase the safety of persons in assisted living facilities, residential dwelling units designed or developed and marketed to senior citizens, nursing homes, and nursing facilities. All nursing homes and nursing facilities that are already equipped with sprinkler systems shall comply with regulations relating to smoke alarms.

§ 44-146.19. Powers and duties of political subdivisions.

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation, preparedness, response, and recovery. Each political subdivision shall maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency management with consent of council;

2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall appoint a coordinator of emergency management with the consent of the governing body;

3. A coordinator of emergency management shall be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;

4. In the case of the Towns of Chincoteague and West Point and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall appoint a coordinator of emergency services with consent of council;

5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a director of emergency management, with the consent of the governing body, who shall appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate, or regulate the use, sale, production, and distribution of food, fuel, clothing, and other commodities, materials, goods, services, and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. The director of each local organization for emergency management may, in collaboration with (i) other public and private agencies within the Commonwealth or (ii) other states or localities within other states, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. Except where a mutual aid arrangement for reciprocal assistance exists between localities, no locality shall prohibit another locality from providing emergency medical services across local boundaries solely on the basis of financial considerations.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command, and a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies. Such plan shall also contain provisions to ensure that the plan is applied equitably and that the needs of minority and vulnerable communities are met during emergencies. Every four years, each local and interjurisdictional agency shall conduct a comprehensive review and revision of its emergency operations plan to ensure that the plan remains current, and the revised plan shall be formally adopted by the locality's governing body. In the case of an interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the localities encompassed by the agency. Each political subdivision having a nuclear power station or other nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

F. All political subdivisions shall provide (i) an annually updated emergency management assessment and (ii) data related to emergency sheltering capabilities, including emergency shelter locations, evacuation zones, capacity by person, medical needs capacity, current wind rating, standards compliance, backup power, and lead agency for staffing, to the State Coordinator of Emergency Management on or before August 1 of each year.

G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of an emergency or threatened disaster. The governing body of the locality, in consultation with its local emergency management organization, shall amend its local emergency operations plan that may include rules for the operation of its alert and warning system, to include sirens, Emergency Alert System (EAS), NOAA Weather Radios, or other personal notification systems, amateur radio operators, or any combination thereof.

H. Localities that have established an agency of emergency management shall have authority to require the review of, and suggest amendments to, the emergency plans of nursing homes, assisted living facilities, adult day care centers, and child day care centers that are located within the locality.

§ 51.5-182. Responsibility for complaints and investigations.

In addition to its responsibilities for complaints regarding services provided by long-term care facilities pursuant to the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended, the Office of the State Long-Term Care Ombudsman shall investigate complaints regarding services provided by (i) licensed adult day care centers as defined in § 63.2-100, (ii) home care organizations as defined in § 32.1-162.7, (iii) hospice facilities as defined in § 32.1-162.1, (iv) providers as defined in § 37.2-403, (v) state hospitals operated by the Department of Behavioral Health and Developmental Services, and (vi) an area agency on aging or any private nonprofit or proprietary agency providing services.

Nothing in this section shall affect the services provided by local departments of social services pursuant to § 63.2-1605.

§ 51.5-183. Access to clients, patients, individuals, providers, and records by Office of the State Long-Term Care Ombudsman; interference, retaliation, and reprisals against complainants.

A. The Office of the State Long-Term Care Ombudsman pursuant to the Older Americans Act, 42 U.S.C. § 3001 et seq., shall, in the performance of its functions, responsibilities, and duties, have access to (i) licensed assisted living facilities and adult day care centers as those terms are defined in § 63.2-100, (ii) home care organizations as defined in § 32.1-162.7, (iii) hospice facilities as defined in § 32.1-162.1, (iv) certified nursing facilities and nursing homes as those terms are defined in § 32.1-123, (v) providers as defined in § 37.2-403, (vi) state hospitals operated by the Department of Behavioral Health and Developmental Services, and (vii) providers of services by an area agency on aging or any private nonprofit or proprietary agency providing services; the clients, patients, and individuals receiving services; and the records of such clients, patients, and individuals whenever the Office of the State Long-Term Care Ombudsman has the consent of the client, patient, or individual receiving services or his legal representative. However, if a client, patient, or individual receiving services is unable to consent to the review of his medical and social records and has no legal representative, and access to the records is necessary to investigate a complaint, access shall be granted to the extent necessary to conduct the investigation. Further, access shall be granted to the Office of the State Long-Term Care Ombudsman if a legal representative of the client, patient, or individual receiving services refuses to give consent and the Office of the State Long-Term Care Ombudsman has reasonable cause to believe that the legal representative is not acting in the best interests of the client, patient, or individual receiving services. Notwithstanding the provisions of § 32.1-125.1, the Office of the State

Long-Term Care Ombudsman shall have access to state hospitals in accordance with this section. Access to patients, residents, and individuals receiving services and their records and to providers shall be available at any time during a provider's regular business or visiting hours and at any other time when access is required by the circumstances to be investigated. Records that are confidential under federal or state law shall be maintained as confidential by the Office of the State Long-Term Care Ombudsman and shall not be further disclosed, except as permitted by law. However, notwithstanding the provisions of this section, there shall be no right of access to privileged communications pursuant to § 8.01-581.17.

B. No provider, entity, or person may interfere with, retaliate against, or subject to reprisals a person who in good faith complains or provides information to, or otherwise cooperates with, the Office of the State Long-Term Care Ombudsman or any of its representatives or designees. The Commissioner shall promulgate regulations regarding the investigation of allegations of interference, retaliation, or reprisals and the implementation of sanctions with respect to such interference, retaliation, or reprisals as required under the Older Americans Act, 42 U.S.C. § 3001 et seq.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed advanced practice registered nurse 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 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice. A licensed midwife pursuant to § 54.1-2957.7 shall only obtain, possess, and administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol;

4. Persons who are employed or engaged at a medical care facility, as defined in § 32.1-3, who have a valid emergency medical services provider certification issued by the Board of Health as a requirement of being employed or engaged at the medical care facility within the scope of such certification, pursuant to an oral or written order or standing protocol to administer drugs and devices at the medical care facility; or

5. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled 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, licensed athletic trainer under contract with a local school division, 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

1166 albuterol inhaler and a valved holding chamber or nebulized albuterol to a student diagnosed with a
1167 condition requiring an albuterol inhaler or nebulized albuterol when the student is believed to be
1168 experiencing or about to experience an asthmatic crisis.

1169 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
1170 professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319
1171 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant
1172 to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a
1173 prescriber and trained in the administration of (a) epinephrine may possess and administer epinephrine
1174 and (b) albuterol inhalers or nebulized albuterol may possess or administer an albuterol inhaler or
1175 nebulized albuterol to a student diagnosed with a condition requiring an albuterol inhaler or nebulized
1176 albuterol when the student is believed to be experiencing or about to experience an asthmatic crisis.

1177 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
1178 professional practice, any nurse at an early childhood care and education entity, employee at the entity,
1179 or employee of a local health department who is authorized by a prescriber and trained in the
1180 administration of epinephrine may possess and administer epinephrine.

1181 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
1182 professional practice, any employee of a public institution of higher education or a private institution of
1183 higher education who is authorized by a prescriber and trained in the administration of epinephrine may
1184 possess and administer epinephrine.

1185 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
1186 professional practice, any employee of an organization providing outdoor educational experiences or
1187 programs for youth who is authorized by a prescriber and trained in the administration of epinephrine
1188 may possess and administer epinephrine.

1189 Pursuant to an order or a standing protocol issued by the prescriber within the course of his
1190 professional practice, and in accordance with policies and guidelines established by the Department of
1191 Health, such prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3
1192 (§ 35.1-18 et seq.) of Title 35.1 to possess and administer epinephrine on the premises of the restaurant
1193 at which the employee is employed, provided that such person is trained in the administration of
1194 epinephrine.

1195 Pursuant to an order issued by the prescriber within the course of his professional practice, an
1196 employee of a provider licensed by the Department of Behavioral Health and Developmental Services or
1197 a person providing services pursuant to a contract with a provider licensed by the Department of
1198 Behavioral Health and Developmental Services may possess and administer epinephrine, provided such
1199 person is authorized and trained in the administration of epinephrine.

1200 Pursuant to an order or standing protocol issued by the prescriber within the course of his
1201 professional practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a
1202 prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

1203 Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of
1204 his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen
1205 for administration in treatment of emergency medical conditions.

1206 E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course
1207 of his professional practice, such prescriber may authorize licensed physical therapists to possess and
1208 administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

1209 F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course
1210 of his professional practice, such prescriber may authorize licensed athletic trainers to possess and
1211 administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen and IV
1212 saline for use in emergency situations; subcutaneous lidocaine for wound closure; epinephrine for use in
1213 emergency cases of anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

1214 G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the
1215 course of his professional practice, and in accordance with policies and guidelines established by the
1216 Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or
1217 licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin
1218 purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and
1219 guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control
1220 and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to
1221 incorporate any subsequently implemented standards of the Occupational Safety and Health
1222 Administration and the Department of Labor and Industry to the extent that they are inconsistent with
1223 the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the
1224 categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate
1225 medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse
1226 implementing such standing protocols has received adequate training in the practice and principles
1227 underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, an advanced practice registered nurse, a physician, or a physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, an advanced practice registered nurse, a physician, or a physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize 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 to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and 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~~ day 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, 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 a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 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 of Health 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 State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid

prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, an advanced practice registered nurse, or a physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated by the Director of the Department of Corrections or designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, any

person may possess and administer naloxone or other opioid antagonist used for overdose reversal, other than naloxone in an injectable formulation with a hypodermic needle or syringe, in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, an advanced practice registered nurse, a physician, or a physician assistant is not present to perform the administration of the medication.

§ 63.2-100. Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent

as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services providers, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more adults who are aged or infirm or who have disabilities and who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more adults who are aged or infirm or who have disabilities.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such

1535 adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical
1536 care, provided that such treatment or care is performed in good faith and in accordance with the
1537 religious practices of the adult and there is a written or oral expression of consent by that adult.

1538 "Adult protective services" means services provided by the local department that are necessary to
1539 protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

1540 "Assisted living care" means a level of service provided by an assisted living facility for adults who
1541 may have physical or mental impairments and require at least a moderate level of assistance with
1542 activities of daily living.

1543 "Assisted living facility" means any congregate residential setting that provides or coordinates
1544 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for
1545 the maintenance or care of four or more adults who are aged or infirm or who have disabilities and who
1546 are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the
1547 State Board of Health or the Department of Behavioral Health and Developmental Services, but
1548 including any portion of such facility not so licensed; (ii) the home or residence of an individual who
1549 cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a
1550 facility serving individuals who are infirm or who have disabilities between the ages of 18 and 21, or 22
1551 if enrolled in an educational program for individuals with disabilities pursuant to § 22.1-214, when such
1552 facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et
1553 seq.), but including any portion of the facility not so licensed; and (iv) any housing project for
1554 individuals who are 62 years of age or older or individuals with disabilities that provides no more than
1555 basic coordination of care services and is funded by the U.S. Department of Housing and Urban
1556 Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development
1557 Authority. Included in this definition are any two or more places, establishments or institutions owned or
1558 operated by a single entity and providing maintenance or care to a combined total of four or more adults
1559 who are aged or infirm or who have disabilities. Maintenance or care means the protection, general
1560 supervision and oversight of the physical and mental well-being of an individual who is aged or infirm
1561 or who has a disability.

1562 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who
1563 receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive
1564 these benefits except for excess income.

1565 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

1566 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
1567 parent(s) by previous adoption.

1568 "Board" means the State Board of Social Services.

1569 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
1570 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age
1571 and meets the eligibility criteria set forth in § 63.2-919.

1572 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
1573 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
1574 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
1575 parents with the process of delegating parental and legal custodial powers of their children pursuant to
1576 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
1577 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title
1578 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
1579 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

1580 "Child-protective services" means the identification, receipt and immediate response to complaints
1581 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes
1582 assessment, and arranging for and providing necessary protective and rehabilitative services for a child
1583 and his family when the child has been found to have been abused or neglected or is at risk of being
1584 abused or neglected.

1585 "Child support services" means any civil, criminal or administrative action taken by the Division of
1586 Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or
1587 collect child support, or child and spousal support.

1588 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent
1589 foster home.

1590 "Children's residential facility" means any facility, child-caring institution, or group home that is
1591 maintained for the purpose of receiving children separated from their parents or guardians for full-time
1592 care, maintenance, protection and guidance, or for the purpose of providing independent living services
1593 to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.
1594 Children's residential facility shall not include:

1595 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events,
1596 return annually to the homes of their parents or guardians for not less than two months of summer

1597 vacation;

1598 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

1599 3. A licensed or accredited hospital legally maintained as such.

1600 "Commissioner" means the Commissioner of the Department, his designee or authorized
1601 representative.

1602 "Department" means the State Department of Social Services.

1603 "Department of Health and Human Services" means the Department of Health and Human Services
1604 of the United States government or any department or agency thereof that may hereafter be designated
1605 as the agency to administer the Social Security Act, as amended.

1606 "Disposable income" means that part of the income due and payable of any individual remaining
1607 after the deduction of any amount required by law to be withheld.

1608 "Energy assistance" means benefits to assist low-income households with their home heating and
1609 cooling needs, including, but not limited to, purchase of materials or substances used for home heating,
1610 repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or
1611 repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance
1612 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the
1613 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.

1614 "Family and permanency team" means the group of individuals assembled by the local department to
1615 assist with determining planning and placement options for a child, which shall include, as appropriate,
1616 all biological relatives and fictive kin of the child, as well as any professionals who have served as a
1617 resource to the child or his family, such as teachers, medical or mental health providers, and clergy
1618 members. In the case of a child who is 14 years of age or older, the family and permanency team shall
1619 also include any members of the child's case planning team that were selected by the child in
1620 accordance with subsection A of § 16.1-281.

1621 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42
1622 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in
1623 accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of
1624 whom they had been the foster parents.

1625 "Fictive kin" means persons who are not related to a child by blood or adoption but have an
1626 established relationship with the child or his family.

1627 "Foster care placement" means placement of a child through (i) an agreement between the parents or
1628 guardians and the local board where legal custody remains with the parents or guardians or (ii) an
1629 entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care
1630 placement" does not include placement of a child in accordance with a power of attorney pursuant to
1631 Chapter 10 (§ 20-166 et seq.) of Title 20.

1632 "Foster home" means a residence approved by a child-placing agency or local board in which any
1633 child, other than a child by birth or adoption of such person or a child who is the subject of a power of
1634 attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural
1635 person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of
1636 Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours
1637 without compensation, resides as a member of the household.

1638 "General relief" means money payments and other forms of relief made to those persons mentioned
1639 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with
1640 § 63.2-401.

1641 "Independent foster home" means a private family home in which any child, other than a child by
1642 birth or adoption of such person, resides as a member of the household and has been placed therein
1643 independently of a child-placing agency except (i) a home in which are received only children related by
1644 birth or adoption of the person who maintains such home and children of personal friends of such
1645 person; (ii) a home in which is received a child or children committed under the provisions of
1646 subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8;
1647 and (iii) a home in which are received only children who are the subject of a properly executed power
1648 of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

1649 "Independent living" means a planned program of services designed to assist a child age 16 and over
1650 and persons who are former foster care children or were formerly committed to the Department of
1651 Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

1652 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
1653 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
1654 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was
1655 committed to the Department of Juvenile Justice immediately prior to placement by the Department of
1656 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute
1657 parental supervision.

1658 "Independent living services" means services and activities provided to a child in foster care 14 years
1659 of age or older who was committed or entrusted to a local board of social services, child welfare
1660 agency, or private child-placing agency. "Independent living services" may also mean services and
1661 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
1662 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his
1663 commitment to the Department of Juvenile Justice, was in the custody of a local board of social
1664 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was
1665 committed to the Department of Juvenile Justice immediately prior to placement in an independent
1666 living arrangement. Such services shall include counseling, education, housing, employment, and money
1667 management skills development, access to essential documents, and other appropriate services to help
1668 children or persons prepare for self-sufficiency.

1669 "Independent physician" means a physician who is chosen by the resident of the assisted living
1670 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an
1671 owner, officer, or employee or as an independent contractor with the residence.

1672 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster
1673 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other
1674 entity authorized to make such placements in accordance with the laws of the foreign country under
1675 which it operates.

1676 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care
1677 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of
1678 the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
1679 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the
1680 action of any court.

1681 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

1682 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
1683 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after
1684 acting as the child's foster parent.

1685 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
1686 between a child and an adult relative of the child who has formerly acted as the child's foster parent that
1687 is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
1688 relative of the child of the authority necessary to ensure the protection, education, care and control, and
1689 custody of the child and the authority for decision making for the child.

1690 "Local board" means the local board of social services representing one or more counties or cities.

1691 "Local department" means the local department of social services of any county or city in the
1692 Commonwealth.

1693 "Local director" means the director or his designated representative of the local department of the
1694 city or county.

1695 "Merit system plan" means those regulations adopted by the Board in the development and operation
1696 of a system of personnel administration meeting requirements of the federal Office of Personnel
1697 Management.

1698 "Parental placement" means locating or effecting the placement of a child or the placing of a child in
1699 a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

1700 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the
1701 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child
1702 care; and general relief.

1703 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services
1704 to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for
1705 a home and community-based waiver program, including an independent physician contracting with the
1706 Department of Medical Assistance Services to complete the uniform assessment instrument for residents
1707 of assisted living facilities, or any hospital that has contracted with the Department of Medical
1708 Assistance Services to perform nursing facility pre-admission screenings.

1709 "Qualified individual" means a trained professional or licensed clinician who is not an employee of
1710 the local board of social services or licensed child-placing agency that placed the child in a qualified
1711 residential treatment program and is not affiliated with any placement setting in which children are
1712 placed by such local board of social services or licensed child-placing agency.

1713 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
1714 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
1715 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
1716 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
1717 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
1718 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
1719 outreach with the child's family members, including efforts to maintain connections between the child

and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1306.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-1700. Application fees; regulations and schedules; use of fees; certain facilities, centers, and agencies exempt.

The Board is authorized to adopt regulations and schedules for fees to be charged for processing applications for licenses to operate assisted living facilities, adult day care centers, and child welfare agencies. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based on the capacity of such facilities, centers, and agencies. Fees shall be used for the development and delivery of training for operators and staff of facilities, centers, and agencies. Fees shall be expended for this purpose within two fiscal years following the fiscal year in which they are collected. These fees shall not be applicable to facilities, centers, or agencies operated by federal entities.

§ 63.2-1701. Licenses required; issuance, expiration, and renewal; maximum number of residents, participants or children; posting of licenses.

1781 A. As used in this section, "person" means any individual; corporation; partnership; association;
1782 limited liability company; local government; state agency, including any department, institution,
1783 authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or
1784 commercial entity that operates or maintains a child welfare agency, adult day care center, or assisted
1785 living facility.

1786 B. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day
1787 care center, or child welfare agency shall obtain the appropriate license from the Commissioner, which
1788 may be renewed. However, no license shall be required for an adult day care center that provides
1789 services only to individuals enrolled in a Programs of All-Inclusive Care for the Elderly program
1790 operated in accordance with an agreement between the provider, the Department of Medical Assistance
1791 Services and the Centers for Medicare and Medicaid Services. The Commissioner, upon request, shall
1792 consult with, advise, and assist any person interested in securing and maintaining any such license. Each
1793 application for a license shall be made to the Commissioner, in such form as he may prescribe. It shall
1794 contain the name and address of the applicant and, if the applicant is an association, partnership, limited
1795 liability company, or corporation, the names and addresses of its officers and agents. The application
1796 shall also contain a description of the activities proposed to be engaged in and the facilities and services
1797 to be employed, together with other pertinent information as the Commissioner may require. In the case
1798 of an application for licensure as a children's residential facility, the application shall also contain
1799 information regarding any complaints, enforcement actions, or sanctions against a license to operate a
1800 children's residential facility held by the applicant in another state.

1801 C. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses
1802 may be issued for concurrent operation of more than one assisted living facility, adult day care center,
1803 or child welfare agency, but each license shall be issued upon a separate form. Each license and
1804 renewals thereof for an assisted living facility, adult day care center, or child welfare agency may be
1805 issued for periods of up to three successive years, unless sooner revoked or surrendered.

1806 D. The length of each license or renewal thereof for an assisted living facility shall be based on the
1807 judgment of the Commissioner regarding the compliance history of the facility and the extent to which it
1808 meets or exceeds state licensing standards. On the basis of this judgment, the Commissioner may issue
1809 licenses or renewals thereof for periods of six months, one year, two years, or three years.

1810 E. The Commissioner may extend or shorten the duration of licensure periods for a child welfare
1811 agency whenever, in his sole discretion, it is administratively necessary to redistribute the workload for
1812 greater efficiency in staff utilization.

1813 F. Each license shall indicate the maximum number of persons who may be cared for in the assisted
1814 living facility, adult day care center, or child welfare agency for which it is issued.

1815 G. The license and any other documents required by the Commissioner shall be posted in a
1816 conspicuous place on the licensed premises.

1817 H. Every person issued a license that has not been suspended or revoked shall renew such license
1818 prior to its expiration.

1819 I. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within
1820 the scope of their authority as such, who serve as or maintain a child-placing agency shall not be
1821 required to be licensed.

1822 **§ 63.2-1705. Compliance with Uniform Statewide Building Code.**

1823 A. Buildings licensed as assisted living facilities, adult day care centers and child welfare agencies
1824 shall be classified by and meet the specifications for the proper Use Group as required by the Virginia
1825 Uniform Statewide Building Code.

1826 B. Buildings used for assisted living facilities or adult day care centers shall be licensed for
1827 ambulatory or nonambulatory residents or participants. Ambulatory means the condition of a resident or
1828 participant who is physically and mentally capable of self-preservation by evacuating in response to an
1829 emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance
1830 of another person, or from the structure itself without the assistance of another person if there is no such
1831 refuge area within the structure, even if such resident or participant may require the assistance of a
1832 wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate. Nonambulatory
1833 means the condition of a resident or participant who by reason of physical or mental impairment is not
1834 capable of self-preservation without the assistance of another person.

1835 **§ 63.2-1706. Inspections and interviews.**

1836 A. Applicants for licensure and licensees shall at all times afford the Commissioner reasonable
1837 opportunity to inspect all of their facilities, books and records, and to interview their agents and
1838 employees and any person living or participating in such facilities, or under their custody, control,
1839 direction or supervision. Interviews conducted pursuant to this section with persons living or
1840 participating in a facility operated by or under the custody, control, direction, or supervision of an
1841 applicant for licensure or a licensee shall be (i) authorized by the person to be interviewed or his legally
1842 authorized representative and (ii) limited to discussion of issues related to the applicant's or licensee's

compliance with applicable laws and regulations, including ascertaining if assessments and reassessments of residents' cognitive and physical needs are performed as required under regulations of the Board.

B. For any adult day ~~care~~ center issued a license or renewal thereof for a period of six months, the Commissioner shall make at least two inspections during the six-month period, one of which shall be unannounced. For any adult day ~~care~~ center issued a license or renewal thereof for a period of one year, the Commissioner shall make at least three inspections each year, at least two of which shall be unannounced. For any adult day ~~care~~ center issued a license or a renewal thereof for a period of two years, the Commissioner shall make at least two inspections each year, at least one of which shall be unannounced. For any adult day ~~care~~ center issued a three-year license, the Commissioner shall make at least one inspection each year, which shall be unannounced.

For any assisted living facility issued a license or renewal thereof for a period of six months, the Commissioner shall make at least two inspections during the six-month period, one of which shall be unannounced. For any assisted living facility issued a license or renewal thereof for a period of one, two, or three years, the Commissioner shall make at least one inspection each year, which shall be unannounced, and as needed based on compliance with applicable laws and regulations.

C. All licensed child welfare agencies shall be inspected not less than twice annually, and one of those inspections shall be unannounced.

D. The activities, services and facilities of each applicant for renewal of his license as an assisted living facility, adult day ~~care~~ center or child welfare agency shall be subject to an inspection or examination by the Commissioner to determine if he is in compliance with current regulations of the Board.

E. For any licensed assisted living facility, adult day ~~care~~ center or child welfare agency, the Commissioner may authorize such other announced or unannounced inspections as the Commissioner considers appropriate.

§ 63.2-1708. Records and reports.

Every licensed assisted living facility, licensed adult day ~~care~~ center, or licensed child welfare agency shall keep such records and make such reports to the Commissioner as he may require. The forms to be used in the making of such reports shall be prescribed and furnished by the Commissioner.

§ 63.2-1709. Enforcement and sanctions; assisted living facilities and adult day centers; interim administration; receivership, revocation, denial, summary suspension.

A. Upon receipt and verification by the Commissioner of information from any source indicating an imminent and substantial risk of harm to residents, the Commissioner may require an assisted living facility to contract with an individual licensed by the Board of Long-Term Care Administrators, to be either selected from a list created and maintained by the Department of Medical Assistance Services or selected from a pool of appropriately licensed administrators recommended by the owner of the assisted living facility, to administer, manage, or operate the assisted living facility on an interim basis, and to attempt to bring the facility into compliance with all relevant requirements of law, regulation, or any plan of correction approved by the Commissioner. Such contract shall require the interim administrator to comply with any and all requirements established by the Department to ensure the health, safety, and welfare of the residents. Prior to or upon conclusion of the period of interim administration, management, or operation, an inspection shall be conducted to determine whether operation of the assisted living facility shall be permitted to continue or should cease. Such interim administration, management, or operation shall not be permitted when defects in the conditions of the premises of the assisted living facility (i) present immediate and substantial risks to the health, safety, and welfare of residents, and (ii) may not be corrected within a reasonable period of time. Any decision by the Commissioner to require the employment of a person to administer, manage, or operate an assisted living facility shall be subject to the rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.). Actual and reasonable costs of such interim administration shall be the responsibility of and shall be borne by the owner of the assisted living facility.

B. The Board shall adopt regulations for the Commissioner to use in determining when the imposition of administrative sanctions or initiation of court proceedings, severally or jointly, is appropriate in order to ensure prompt correction of violations in assisted living facilities and adult day ~~care~~ centers involving noncompliance with state law or regulation as discovered through any inspection or investigation conducted by the Departments of Social Services, Health, or Behavioral Health and Developmental Services. The Commissioner may impose such sanctions or take such actions as are appropriate for violation of any of the provisions of this subtitle or any regulation adopted under any provision of this subtitle that adversely affects the health, safety or welfare of an assisted living facility resident or an adult day ~~care~~ center participant. Such sanctions or actions may include (i) petitioning the court to appoint a receiver for any assisted living facility or adult day ~~care~~ center and (ii) revoking or denying renewal of the license for the assisted living facility or adult day ~~care~~ center for violation of

any of the provisions of this subtitle, § 54.1-3408 or any regulation adopted under this subtitle that violation adversely affects, or is an immediate and substantial threat to, the health, safety or welfare of the person cared for therein, or for permitting, aiding or abetting the commission of any illegal act in an assisted living facility or adult day care center.

C. The Commissioner may issue a notice of summary suspension of the license to operate the assisted living facility pursuant to (i) for assisted living facilities operated by agencies of the Commonwealth, the procedures set forth in § 63.2-1710.1 or (ii) for all other assisted living facilities, the procedures hereinafter set forth in conjunction with any proceeding for revocation, denial, or other action when conditions or practices exist that pose an immediate and substantial threat to the health, safety, and welfare of the residents. The notice of summary suspension shall set forth (a) the summary suspension procedures, (b) hearing and appeal rights as provided under this subsection, (c) facts and evidence that formed the basis for which the summary suspension is sought, and (d) the time, date, and location of the hearing to determine whether the suspension is appropriate. Such notice shall be served on the assisted living facility or its designee as soon as practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of the assisted living facility.

The summary suspension hearing shall be presided over by a hearing officer selected by the Commissioner from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be held as soon as practicable, but in no event later than 15 business days following service of the notice of hearing; however, the hearing officer may grant a written request for a continuance, not to exceed an additional 10 business days, for good cause shown. Within 10 business days after such hearing, the hearing officer shall provide to the Commissioner written findings and conclusions, together with a recommendation as to whether the license should be summarily suspended.

Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation, the Commissioner may issue a final order of summary suspension or an order that such summary suspension is not warranted by the facts and circumstances presented. The Commissioner shall adopt the hearing officer's recommended decision unless to do so would be an error of law or Department policy. In the event that the Commissioner rejects a hearing officer's findings, conclusions, or recommended decision, the Commissioner shall state with particularity the basis for rejection. In issuing a final order of summary suspension, the Commissioner may suspend the license of the assisted living facility or suspend only certain authority of the assisted living facility to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health, safety, and welfare of the residents receiving care. A final order of summary suspension shall include notice that the assisted living facility may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following service of the order. A copy of any final order of summary suspension shall be prominently displayed by the provider at each public entrance of the facility, or in lieu thereof, the provider may display a written statement summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface, and identifying the location within the facility where the final order of summary suspension may be reviewed.

Upon appeal, the sole issue before the court shall be whether the Department had reasonable grounds to require the assisted living facility to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. Any concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension. The willful and material failure to comply with the final order of summary suspension shall constitute an offense under subdivision 3 of § 63.2-1712. At the request of the Commissioner, all agencies and subdivisions of the Commonwealth shall cooperate with the Commissioner in the relocation of residents of an assisted living facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to residents.

D. Notice of the Commissioner's intent to revoke or deny renewal of the license for an assisted living facility or to summarily suspend the license of an assisted living facility shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. In determining whether to deny, revoke, or summarily suspend a license, the Commissioner may choose to deny, revoke, or summarily suspend only certain authority of the assisted living facility to operate and may restrict or modify the assisted living facility's authority to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health, safety, or welfare of the residents. Such proposed denial, revocation, or summary suspension of certain services or functions may be appealed (i) if the assisted living facility is operated by an agency of the Commonwealth in accordance with the provisions of § 63.2-1710.2 and (ii) for all other assisted living facilities as otherwise provided in this subtitle for any denial, revocation, or summary suspension.

§ 63.2-1709.2. Enforcement and sanctions; special orders; civil penalties.

A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the Commissioner may issue a special order (i) for violation of any of the provisions of this subtitle,

§ 54.1-3408, or any regulation adopted under any provision of this subtitle which violation adversely affects, or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii) for permitting, aiding, or abetting the commission of any illegal act in an assisted living facility, adult day care center, or child welfare agency. Notice of the Commissioner's intent to take any of the actions enumerated in subdivisions B 1 through B 7 shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. Actions set forth in subsection B may be appealed by (a) an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth in accordance with § 63.2-1710.2 or (b) any other assisted living facility, adult day care center, or child welfare agency in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The Commissioner shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.

B. The Commissioner may take the following actions regarding assisted living facilities, adult day care centers, and child welfare agencies through the issuance of a special order and may require a copy of the special order provided by the Department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of its license and that the health and safety of residents, participants, or children are at risk;

2. Reduce licensed capacity or prohibit new admissions when the Commissioner concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;

3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the Commissioner concludes that the lack of such training has led directly to violations of regulations;

4. Assess civil penalties for each day the assisted living facility is or was out of compliance with the terms of its license and the health, safety, and welfare of residents are at risk, which shall be paid into the state treasury and credited to the Assisted Living Facility Education, Training, and Technical Assistance Fund created pursuant to § 63.2-1803.1; however, no civil penalty shall be imposed pursuant to this subdivision on any assisted living facility operated by an agency of the Commonwealth. The aggregate amount of such civil penalties shall not exceed \$10,000 for assisted living facilities in any 12-month period. Criteria for imposition of civil penalties and amounts, expressed in ranges, shall be developed by the Board, and shall be based upon the severity, pervasiveness, duration, and degree of risk to the health, safety, or welfare of residents. Such civil penalties shall be applied by the Commissioner in a consistent manner. Such criteria shall also provide that (i) the Commissioner may accept a plan of correction, including a schedule of compliance, from an assisted living facility prior to setting a civil penalty, and (ii) the Commissioner may reduce or abate the penalty amount if the facility complies with the plan of correction within its terms.

A single act, omission, or incident shall not give rise to imposition of multiple civil penalties even though such act, omission, or incident may violate more than one statute or regulation. A civil penalty that is not appealed becomes due on the first day after the appeal period expires. The license of an assisted living facility that has failed to pay a civil penalty due under this section shall not be renewed until the civil penalty has been paid in full, with interest, provided that the Commissioner may renew a license when an unpaid civil penalty is the subject of a pending appeal;

5. Assess civil penalties of not more than \$500 per inspection upon finding that the adult day care center or child welfare agency is substantially out of compliance with the terms of its license and the health and safety of residents, participants, or children are at risk; however, no civil penalty shall be imposed pursuant to this subdivision on any adult day care center or child welfare agency operated by an agency of the Commonwealth;

6. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and

7. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

C. The Board shall adopt regulations to implement the provisions of this section.

§ 63.2-1710. Appeal from refusal, denial of renewal, or revocation of license.

A. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth, the provisions of § 63.2-1710.2 shall apply. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child welfare agency other than an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth, the provisions of the Administrative

2027 Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Commissioner's
2028 intent to refuse to issue or renew, or revoke a license shall be received in writing from the assisted
2029 living facility, adult day ~~care~~ center or child welfare agency operator within 15 days of the date of
2030 receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the
2031 provisions of the Administrative Process Act. No stay may be granted upon appeal to the Court of
2032 Appeals.

2033 B. In every appeal to a court of record, the Commissioner shall be named defendant.

2034 C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for
2035 operation without a license.

2036 D. When issuance or renewal of a license as an assisted living facility or adult day ~~care~~ center has
2037 been refused by the Commissioner, the applicant shall not thereafter for a period of one year apply
2038 again for such license unless the Commissioner in his sole discretion believes that there has been such a
2039 change in the conditions on account of which he refused the prior application as to justify considering
2040 the new application. When an appeal is taken by the applicant pursuant to subsection A, the one-year
2041 period shall be extended until a final decision has been rendered on appeal.

2042 E. When issuance or renewal of a license for a child welfare agency has been refused by the
2043 Commissioner, the applicant shall not thereafter for a period of six months apply again for such license
2044 unless the Commissioner in his sole discretion believes that there has been such a change in the
2045 conditions on account of which he refused the prior application as to justify considering the new
2046 application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period
2047 shall be extended until a final decision has been rendered on appeal.

2048 **§ 63.2-1710.2. Right to appeal notice of intent; assisted living facilities, adult day centers, and**
2049 **child welfare agencies operated by agencies of the Commonwealth.**

2050 An assisted living facility, adult day ~~care~~ center, or child welfare agency operated by an agency of
2051 the Commonwealth shall have the right to appeal any notice of intent as follows:

2052 1. Within 30 days after receiving a notice of intent to impose a sanction, the licensee shall request in
2053 writing that the Commissioner review the intended agency action and may submit, together with such
2054 request, relevant information, documentation, or other pertinent data supporting its appeal. The
2055 Commissioner shall issue a decision within 60 days after receiving the request and shall have the
2056 authority to uphold the sanction or take whatever action he deems appropriate to resolve the controversy.

2057 2. If the assisted living facility, adult day ~~care~~ center, or child welfare agency disputes the
2058 Commissioner's decision, the licensee shall request, within 30 days of receiving the Commissioner's
2059 decision, that the Commissioner refer the matter to the Secretary of Health and Human Resources. The
2060 Secretary shall issue a decision within 60 days of receiving the request for review. The Secretary's
2061 decision shall be final and shall not be subject to review.

2062 **§ 63.2-1711. Injunction against operation without license.**

2063 Any circuit court having jurisdiction in the county or city where the principal office of any assisted
2064 living facility, adult day ~~care~~ center or child welfare agency is located shall, at the suit of the
2065 Commissioner, have jurisdiction to enjoin its operation without a license required by this subtitle.

2066 **§ 63.2-1712. Offenses; penalty.**

2067 Any person, and each officer and each member of the governing board of any association or
2068 corporation that operates an assisted living facility, adult day ~~care~~ center or child welfare agency, is
2069 guilty of a Class 1 misdemeanor if he:

2070 1. Interferes with any representative of the Commissioner in the discharge of his duties under this
2071 subtitle;

2072 2. Makes to the Commissioner or any representative of the Commissioner any report or statement,
2073 with respect to the operation of any assisted living facility, adult day ~~care~~ center, or child welfare
2074 agency, that is known by such person to be false or untrue;

2075 3. Operates or engages in the conduct of an assisted living facility, adult day ~~care~~ center, or child
2076 welfare agency without first obtaining a license as required by this subtitle or after such license has been
2077 revoked or suspended or has expired and not been renewed. No violation shall occur if the facility,
2078 center, or agency has applied to the Department for renewal prior to the expiration date of the license.
2079 Every day's violation of this subdivision shall constitute a separate offense; or

2080 4. Operates or engages in the conduct of an assisted living facility, adult day ~~care~~ center, or child
2081 welfare agency serving more persons than the maximum stipulated in the license.

2082 **§ 63.2-1713. Misleading advertising prohibited.**

2083 No assisted living facility, adult day ~~care~~ center, or child welfare agency shall make, publish,
2084 disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published,
2085 disseminated, circulated, or placed before the public in ~~this~~ the Commonwealth, in a newspaper or other
2086 publication; in the form of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular,
2087 pamphlet, or letter; or via electronic mail, website, automatic mailing list services (listservs),
2088 newsgroups, facsimile, chat rooms; or in any other way an advertisement of any sort regarding services

or anything so offered to the public, which advertisement contains any promise, assertion, representation, or statement of fact that is untrue, deceptive, or misleading.

§ 63.2-1720. Assisted living facilities and adult day centers; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.

A. No assisted living facility or adult day ~~care~~ center shall hire for compensated employment or continue to employ persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02. A child-placing agency or independent foster home licensed in accordance with the provisions of this chapter shall not hire for compensated employment or continue to employ persons who (i) have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day ~~care~~ center may hire an applicant or continue to employ a person convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially similar offense under the laws of another jurisdiction, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies or independent foster homes, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies or independent foster homes, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day ~~care~~ center, licensed child-placing agency, or licensed independent foster home shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies or independent foster homes, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day ~~care~~ center, child-placing agency, or independent foster home shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be permitted to serve in a licensed child-placing agency or independent foster home. Any person desiring to volunteer at a licensed child-placing agency or independent foster home shall provide the agency, system, or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency or independent foster home shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (a) the information from the central registry and (b) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency or independent foster home shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency or independent foster home, whether or not such parent-volunteer will be alone with any child in the

2150 performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children
2151 that includes the parent-volunteer's own child in a program that operates no more than four hours per
2152 day, provided that the parent-volunteer works under the direct supervision of a person who has received
2153 a clearance pursuant to this section.

2154 G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day
2155 care center without the permission or under the supervision of a person who has received a clearance
2156 pursuant to this section.

2157 H. Further dissemination of the background check information is prohibited other than to the
2158 Commissioner's representative or a federal or state authority or court as may be required to comply with
2159 an express requirement of law for such further dissemination.

2160 I. Notwithstanding any other provision of law, a licensed adult day care center that provides services
2161 to individuals receiving services under the state plan for medical assistance services or any waiver
2162 thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history
2163 background check has been completed for an employee in accordance with this section and (ii) whether
2164 such employee is eligible for employment.

2165 J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of
2166 this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living
2167 facility.

2168 K. A person who complies in good faith with the provisions of this section shall not be liable for
2169 any civil damages for any act or omission in the performance of duties under this section unless the act
2170 or omission was the result of gross negligence or willful misconduct.

2171 **§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain**
2172 **background check.**

2173 A. The Commissioner may revoke or deny renewal of a license of a child welfare agency, assisted
2174 living facility, or adult day care center and a child-placing agency may revoke the approval of a foster
2175 home if the assisted living facility, adult day care center, child welfare agency, or foster home has
2176 knowledge that a person specified in § 63.2-1720 or 63.2-1721 required to have a background check (i)
2177 has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) in the case of a child welfare
2178 agency or foster home, is the subject of a founded complaint of child abuse or neglect within or outside
2179 the Commonwealth, and such person has not been granted a waiver by the Commissioner pursuant to §
2180 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720 or subsection E, F, G, or H
2181 of § 63.2-1721, and the facility, center, or agency refuses to separate such person from employment or
2182 service or allows the household member to continue to reside in the home.

2183 B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1721 shall be grounds for
2184 denial, revocation, or termination of a license, registration, or approval or any contract with the
2185 Department or a local department to provide child care services to clients of the Department or local
2186 department. No violation shall occur if the assisted living facility, adult day care center, child-placing
2187 agency, or independent foster home has applied for the background check timely and it has not been
2188 obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

2189 **§ 63.2-1728. Establishment of toll-free telephone line for complaints; investigation on receipt of**
2190 **complaints.**

2191 With such funds as are appropriated for this purpose, the Commissioner shall establish a toll-free
2192 telephone line to respond to complaints regarding operations of assisted living facilities, adult day care
2193 centers and child welfare agencies. Upon receipt of a complaint concerning the operation of an assisted
2194 living facility, adult day care center or child welfare agency, regardless of whether the program is
2195 subject to licensure, the Commissioner shall, for good cause shown, cause an investigation to be made,
2196 including on-site visits as he deems necessary, of the activities, services, records and facilities. The
2197 assisted living facility, adult day care center or child welfare agency shall afford the Commissioner
2198 reasonable opportunity to inspect all of the operator's activities, services, records and facilities and to
2199 interview its agents and employees and any child or other person within its custody or control.
2200 Whenever an assisted living facility, adult day care center or child welfare agency subject to inspection
2201 under this section is determined by the Commissioner to be in noncompliance with the provisions of this
2202 subtitle or with regulations adopted pursuant to this subtitle, the Commissioner shall give reasonable
2203 notice to the assisted living facility, adult day care center or child welfare agency of the nature of its
2204 noncompliance and may thereafter take appropriate action as provided by law, including a suit to enjoin
2205 the operation of the assisted living facility, adult day care center or child welfare agency.

2206 An incident report filed by an assisted living facility, pursuant to regulations adopted by the Board,
2207 for any major incident that negatively affects or threatens the life, health, safety, or welfare of any
2208 resident of the facility shall not be considered a complaint for purposes of this section and shall not be
2209 posted by the Department on a website maintained by the Department. However, upon receipt of an
2210 incident report for any major incident that negatively affects or threatens the life, health, safety, or
2211 welfare of any resident of an assisted living facility, the Commissioner may initiate an investigation

including an on-site visit to the facility if the Commissioner finds, for good cause shown based upon the seriousness of the incident and the nature of any response to the incident, including any implementation of a plan of correction to address the situation giving rise to the incident, that an investigation is required to protect the life, health, safety, or welfare of a resident of the assisted living facility.

§ 63.2-1729. Confidentiality of complainant's identity.

Whenever the Department conducts inspections and investigations in response to complaints received from the public, the identity of the complainant and the identity of any resident, participant or child who is the subject of the complaint, or identified therein, shall be confidential and shall not be open to inspection by members of the public. Identities of the complainant and resident, participant or child who is the subject of the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from disclosing to the assisted living facility, adult day care center or child welfare agency the nature of the complaint or the identity of the resident, participant or child who is the subject of the complaint. Nothing contained herein shall prevent the Department or its employees from making reports under Chapter 15 (§ 63.2-1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of this title. If the Department intends to rely, in whole or in part, on any statements made by the complainant, at any administrative hearing brought against the assisted living facility, adult day care center or child welfare agency, the Department shall disclose the identity of the complainant to the assisted living facility, adult day care center or child welfare agency a reasonable time in advance of such hearing.

§ 63.2-1730. Retaliation or discrimination against complainants.

No assisted living facility, adult day care center or child welfare agency may retaliate or discriminate in any manner against any person who (i) in good faith complains or provides information to, or otherwise cooperates with, the Department or any other agency of government or any person or entity operating under contract with an agency of government, having responsibility for protecting the rights of residents of assisted living facilities, participants in adult day care centers or children in child welfare agencies, (ii) attempts to assert any right protected by state or federal law, or (iii) assists any person in asserting such right.

§ 63.2-1731. Retaliation against reports of child or adult abuse or neglect.

No assisted living facility, adult day care center or child welfare agency may retaliate in any manner against any person who in good faith reports adult or child abuse or neglect pursuant to Chapter 15 (§ 63.2-1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of this title.

§ 63.2-1733. Regulations for adult day centers.

A. The Board shall have the authority to adopt and enforce regulations to carry out the provisions of this subtitle and to protect the health, safety, welfare, and individual rights of participants of adult day care centers and to promote their highest level of functioning.

B. Regulations shall include standards for care and services to be provided to participants; administration of medication; staffing; staff qualifications and training; and facility design, construction, and equipment.