HOUSE BILL NO. 353

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2 Offered January 10, 2024 3 Prefiled January 5, 2024 4 A BILL to amend and reenact § 32.1-127, as it is currently effective and as it shall become effective, of 5 the Code of Virginia, relating to hospitals; emergency departments; licensed physicians. 6 Patron-Hope 7 8 Referred to Committee on Health and Human Services 9 10 Be it enacted by the General Assembly of Virginia: 1. That § 32.1-127, as it is currently effective and as it shall become effective, of the Code of 11 12 Virginia is amended and reenacted as follows: § 32.1-127. (Effective until July 1, 2025) Regulations. 13 14 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in 15 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 16 public health and safety, including health and safety standards established under provisions of Title 17 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.). 18 19 **B.** Such regulations: 20 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing 21 homes and certified nursing facilities to ensure the environmental protection and the life safety of its 22 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes 23 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and 24 certified nursing facilities, except those professionals licensed or certified by the Department of Health 25 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing 26 services to patients in their places of residence; and (v) policies related to infection prevention, disaster 27 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities; 28 2. Shall provide that at least one physician who is licensed to practice medicine in this the 29 Commonwealth and is primarily responsible for the emergency department shall be on eall duty and 30 physically present at all times, though not necessarily physically present on the premises, at each 31 hospital which that 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 32 33 licensing hospitals and nursing homes by bed capacity and by type of specialty or service; 34 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with 35 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 36 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization 37 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement 38 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of 39 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for 40 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in 41 Virginia certified by the Eye Bank Association of America or the American Association of Tissue 42 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, 43 and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential 44 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital 45 46 collaborates with the designated organ procurement organization to inform the family of each potential 47 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 48 49 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ 50 procurement organization and designed in conjunction with the tissue and eye bank community and (b) 51 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the 52 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement 53 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 54 55 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, 56 without exception, unless the family of the relevant decedent or patient has expressed opposition to 57 58 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition,

59 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 admissionor 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 62 63 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall 64 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother 65 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 66 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. 67 68 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to 69 the extent possible, the other parent of the infant and any members of the patient's extended family who 70 may participate in the follow-up care for the mother and the infant. Immediately upon identification, 71 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 72 73 resides to appoint a discharge plan manager. The community services board shall implement and manage 74 the discharge plan;

75 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;

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

89 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or 90 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication 91 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute 92 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable 93 period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and 94 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 95 96 authorized to give the order;

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

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

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

112 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;

117 16. Shall require that each nursing home and certified nursing facility shall, upon the request of the
118 facility's family council, send notices and information about the family council mutually developed by
119 the family council and the administration of the nursing home or certified nursing facility, and provided
120 to the facility for such purpose, to the listed responsible party or a contact person of the resident's

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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;

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

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

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

140 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol 141 that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct 142 verbal communication between the on-call physician in the psychiatric unit and the referring physician, 143 if requested by such referring physician, and prohibits on-call physicians or other hospital staff from 144 refusing a request for such direct verbal communication by a referring physician and (ii) a patient for 145 whom there is a question regarding the medical stability or medical appropriateness of admission for 146 inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call 147 physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct 148 verbal communication, either in person or via telephone, with a clinical toxicologist or other person who 149 is a Certified Specialist in Poison Information employed by a poison control center that is accredited by 150 the American Association of Poison Control Centers to review the results of the toxicology screen and 151 determine whether a medical reason for refusing admission to the psychiatric unit related to the results 152 of the toxicology screen exists, if requested by the referring physician;

153 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop 154 a policy governing determination of the medical and ethical appropriateness of proposed medical care, 155 which shall include (i) a process for obtaining a second opinion regarding the medical and ethical 156 appropriateness of proposed medical care in cases in which a physician has determined proposed care to 157 be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed 158 medical care is medically or ethically inappropriate by an interdisciplinary medical review committee 159 and a determination by the interdisciplinary medical review committee regarding the medical and ethical 160 appropriateness of the proposed health care; and (iii) requirements for a written explanation of the 161 decision reached by the interdisciplinary medical review committee, which shall be included in the 162 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 163 164 medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to 165 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 166 167 legal counsel to represent the patient or from seeking other remedies available at law, including seeking 168 court review, provided that the patient, his agent, or the person authorized to make medical decisions 169 pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the 170 hospital within 14 days of the date on which the physician's determination that proposed medical 171 treatment is medically or ethically inappropriate is documented in the patient's medical record;

172 22. Shall require every hospital with an emergency department to establish a security plan. Such 173 security plan shall be developed using standards established by the International Association for 174 Healthcare Security and Safety or other industry standard and shall be based on the results of a security 175 risk assessment of each emergency department location of the hospital and shall include the presence of 176 at least one off-duty law-enforcement officer or trained security personnel who is present in the 177 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, 178 179 including trauma level designation, overall volume, volume of psychiatric and forensic patients, incidents 180 of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in 181 the community, in consultation with the emergency department medical director and nurse director. The

182 security plan shall also outline training requirements for security personnel in the potential use of and 183 response to weapons, defensive tactics, de-escalation techniques, appropriate physical restraint and 184 seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also 185 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 186 187 experiencing a mental health crisis. Such training requirements may be satisfied through completion of 188 the Department of Criminal Justice Services minimum training standards for auxiliary police officers as 189 required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at least 190 one off-duty law-enforcement officer or trained security personnel be present at all times in the 191 emergency department if the hospital demonstrates that a different level of security is necessary and 192 appropriate for any of its emergency departments based upon findings in the security risk assessment;

193 23. Shall require that each hospital establish a protocol requiring that, before a health care provider 194 arranges for air medical transportation services for a patient who does not have an emergency medical 195 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized 196 representative with written or electronic notice that the patient (i) may have a choice of transportation by 197 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 198 199 event that the provider is not a contracted network provider of the patient's health insurance carrier or 200 such charges are not otherwise covered in full or in part by the patient's health insurance plan;

201 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in 202 an existing hospital or nursing home, including beds located in a temporary structure or satellite location 203 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 204 Commissioner's determination plus 30 days when the Commissioner has determined that a natural or 205 206 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 207 208 the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the 209 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, 210 211 contagious, or infectious disease or other danger to the public life and health;

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

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

220 27. Shall require each hospital with an emergency department to establish a protocol for the 221 treatment and discharge of individuals experiencing a substance use-related emergency, which shall 222 include provisions for (i) appropriate screening and assessment of individuals experiencing substance 223 use-related emergencies to identify medical interventions necessary for the treatment of the individual in 224 the emergency department and (ii) recommendations for follow-up care following discharge for any 225 patient identified as having a substance use disorder, depression, or mental health disorder, as 226 appropriate, which may include, for patients who have been treated for substance use-related 227 emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or 228 other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge 229 or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist 230 used for overdose reversal, including information about accessing naloxone or other opioid antagonist 231 used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the 232 hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid 233 antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such 234 protocols may also provide for referrals of individuals experiencing a substance use-related emergency to 235 peer recovery specialists and community-based providers of behavioral health services, or to providers of 236 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

237 28. During a public health emergency related to COVID-19, shall require each nursing home and
238 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with
239 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for
240 Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the
241 conditions, including conditions related to the presence of COVID-19 in the nursing home, certified
242 nursing facility, and community, under which in-person visits will be allowed and under which in-person
243 visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which

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244 in-person visitors will be required to comply to protect the health and safety of the patients and staff of 245 the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or 246 video technology, and the staff support necessary to ensure visits are provided as required by this 247 subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a 248 technology failure, service interruption, or documented emergency that prevents visits from occurring as 249 required by this subdivision. Such protocol shall also include (a) a statement of the frequency with 250 which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least 251 once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's 252 personal representative to waive or limit visitation, provided that such waiver or limitation is included in 253 the patient's health record; and (c) a requirement that each nursing home and certified nursing facility 254 publish on its website or communicate to each patient or the patient's authorized representative, in 255 writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits 256 to patients as required by this subdivision;

257 29. Shall require each hospital, nursing home, and certified nursing facility to establish and 258 implement policies to ensure the permissible access to and use of an intelligent personal assistant 259 provided by a patient, in accordance with such regulations, while receiving inpatient services. Such 260 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 261 262 263 electronic device and a specialized software application designed to assist users with basic tasks using a 264 combination of natural language processing and artificial intelligence, including such combinations 265 known as "digital assistants" or "virtual assistants";

266 30. During a declared public health emergency related to a communicable disease of public health 267 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to 268 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or 269 sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for 270 Medicare and Medicaid Services and subject to compliance with any executive order, order of public 271 health, Department guidance, or any other applicable federal or state guidance having the effect of 272 limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits 273 to be conducted virtually using interactive audio or video technology. Any such protocol may require the 274 person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the 275 hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the 276 person, patients, and staff of the hospital, nursing home, or certified nursing facility; and

277 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of 278 patients who are minors available to such patients through a secure website shall make such health 279 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 280 281 disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent 282 required in accordance with subsection E of § 54.1-2969 has not been provided.

283 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and 284 certified nursing facilities may operate adult day care centers.

285 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for 286 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot 287 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to 288 be contaminated with an infectious agent, those hemophiliacs who have received units of this 289 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot 290 that is known to be contaminated shall notify the recipient's attending physician and request that he 291 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, 292 return receipt requested, each recipient who received treatment from a known contaminated lot at the 293 individual's last known address.

294 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the 295 provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal. 296

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

297 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in 298 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as 299 established and recognized by medical and health care professionals and by specialists in matters of 300 public health and safety, including health and safety standards established under provisions of Title 301 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

302 B. Such regulations:

303 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing 304 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;

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

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

317 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with 318 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 319 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization 320 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement 321 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of 322 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for 323 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in 324 Virginia certified by the Eye Bank Association of America or the American Association of Tissue 325 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least 326 one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, 327 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 328 329 collaborates with the designated organ procurement organization to inform the family of each potential 330 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making 331 contact with the family shall have completed a course in the methodology for approaching potential 332 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ 333 procurement organization and designed in conjunction with the tissue and eye bank community and (b) 334 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the 335 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement 336 organization in educating the staff responsible for contacting the organ procurement organization's 337 personnel on donation issues, the proper review of death records to improve identification of potential 338 donors, and the proper procedures for maintaining potential donors while necessary testing and 339 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 340 341 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, 342 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 admissionor transfer of any pregnant woman who presents herself while in labor;

345 6. Shall also require that each licensed hospital develop and implement a protocol requiring written 346 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall 347 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother 348 and the infant be made and documented. Appropriate referrals may include, but need not be limited to, 349 treatment services, comprehensive early intervention services for infants and toddlers with disabilities 350 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. 351 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to 352 the extent possible, the other parent of the infant and any members of the patient's extended family who 353 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, 354 355 subject to federal law restrictions, the community services board of the jurisdiction in which the woman 356 resides to appoint a discharge plan manager. The community services board shall implement and manage 357 the discharge plan;

358 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant359 for admission the home's or facility's admissions policies, including any preferences given;

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responsibilities of patients which shall include a process reasonably designed to inform patients of such
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patients on admission, shall be consistent with applicable federal law and regulations of the Centers for
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367 standards may be differentiated for various levels or categories of care and may include, but need not be368 limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

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 370 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting
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11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or 372 373 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication 374 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 375 376 period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and 377 regulations or hospital policies and procedures, by the person giving the order, or, when such person is 378 not available within the period of time specified, co-signed by another physician or other person 379 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
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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
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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
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potential patient will have a length of stay greater than three days or in fact stays longer than three
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396 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;

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

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419 deposit with the facility following the discharge or death of a patient, other than entrance-related fees
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422 the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

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426 if requested by such referring physician, and prohibits on-call physicians or other hospital staff from
427 refusing a request for such direct verbal communication by a referring physician and (ii) a patient for

428 whom there is a question regarding the medical stability or medical appropriateness of admission for 429 inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call 430 physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct 431 verbal communication, either in person or via telephone, with a clinical toxicologist or other person who 432 is a Certified Specialist in Poison Information employed by a poison control center that is accredited by 433 the American Association of Poison Control Centers to review the results of the toxicology screen and 434 determine whether a medical reason for refusing admission to the psychiatric unit related to the results 435 of the toxicology screen exists, if requested by the referring physician;

436 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop 437 a policy governing determination of the medical and ethical appropriateness of proposed medical care, 438 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 439 440 be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed 441 medical care is medically or ethically inappropriate by an interdisciplinary medical review committee 442 and a determination by the interdisciplinary medical review committee regarding the medical and ethical 443 appropriateness of the proposed health care; and (iii) requirements for a written explanation of the 444 decision reached by the interdisciplinary medical review committee, which shall be included in the 445 patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to 446 make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his 447 medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to 448 participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, 449 his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining 450 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 451 452 pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the 453 hospital within 14 days of the date on which the physician's determination that proposed medical 454 treatment is medically or ethically inappropriate is documented in the patient's medical record;

455 22. Shall require every hospital with an emergency department to establish a security plan. Such 456 security plan shall be developed using standards established by the International Association for 457 Healthcare Security and Safety or other industry standard and shall be based on the results of a security 458 risk assessment of each emergency department location of the hospital and shall include the presence of 459 at least one off-duty law-enforcement officer or trained security personnel who is present in the 460 emergency department at all times as indicated to be necessary and appropriate by the security risk 461 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 462 463 of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in 464 the community, in consultation with the emergency department medical director and nurse director. The 465 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 466 seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also 467 468 include instruction on safely addressing situations involving patients, family members, or other persons 469 who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are 470 experiencing a mental health crisis. Such training requirements may be satisfied through completion of 471 the Department of Criminal Justice Services minimum training standards for auxiliary police officers as 472 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 473 474 475 appropriate for any of its emergency departments based upon findings in the security risk assessment;

476 23. Shall require that each hospital establish a protocol requiring that, before a health care provider 477 arranges for air medical transportation services for a patient who does not have an emergency medical 478 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized 479 representative with written or electronic notice that the patient (i) may have a choice of transportation by 480 an air medical transportation provider or medically appropriate ground transportation by an emergency 481 medical services provider and (ii) will be responsible for charges incurred for such transportation in the 482 event that the provider is not a contracted network provider of the patient's health insurance carrier or 483 such charges are not otherwise covered in full or in part by the patient's health insurance plan;

484 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

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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;

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

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

503 27. Shall require each hospital with an emergency department to establish a protocol for the 504 treatment and discharge of individuals experiencing a substance use-related emergency, which shall 505 include provisions for (i) appropriate screening and assessment of individuals experiencing substance 506 use-related emergencies to identify medical interventions necessary for the treatment of the individual in 507 the emergency department and (ii) recommendations for follow-up care following discharge for any 508 patient identified as having a substance use disorder, depression, or mental health disorder, as 509 appropriate, which may include, for patients who have been treated for substance use-related 510 emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or 511 other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge 512 or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist 513 used for overdose reversal, including information about accessing naloxone or other opioid antagonist 514 used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the 515 hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid 516 antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such 517 protocols may also provide for referrals of individuals experiencing a substance use-related emergency to 518 peer recovery specialists and community-based providers of behavioral health services, or to providers of 519 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

520 28. During a public health emergency related to COVID-19, shall require each nursing home and 521 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with 522 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for 523 Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the 524 conditions, including conditions related to the presence of COVID-19 in the nursing home, certified 525 nursing facility, and community, under which in-person visits will be allowed and under which in-person 526 visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which 527 in-person visitors will be required to comply to protect the health and safety of the patients and staff of 528 the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or 529 video technology, and the staff support necessary to ensure visits are provided as required by this 530 subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a 531 technology failure, service interruption, or documented emergency that prevents visits from occurring as 532 required by this subdivision. Such protocol shall also include (a) a statement of the frequency with 533 which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least 534 once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's 535 personal representative to waive or limit visitation, provided that such waiver or limitation is included in 536 the patient's health record; and (c) a requirement that each nursing home and certified nursing facility 537 publish on its website or communicate to each patient or the patient's authorized representative, in 538 writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits 539 to patients as required by this subdivision;

540 29. Shall require each hospital, nursing home, and certified nursing facility to establish and 541 implement policies to ensure the permissible access to and use of an intelligent personal assistant 542 provided by a patient, in accordance with such regulations, while receiving inpatient services. Such 543 policies shall ensure protection of health information in accordance with the requirements of the federal 544 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 545 546 electronic device and a specialized software application designed to assist users with basic tasks using a 547 combination of natural language processing and artificial intelligence, including such combinations 548 known as "digital assistants" or "virtual assistants";

549 30. During a declared public health emergency related to a communicable disease of public health 550 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to

551 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or 552 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 553 554 health, Department guidance, or any other applicable federal or state guidance having the effect of 555 limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits 556 to be conducted virtually using interactive audio or video technology. Any such protocol may require the 557 person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the 558 hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the 559 person, patients, and staff of the hospital, nursing home, or certified nursing facility;

560 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of 561 patients who are minors available to such patients through a secure website shall make such health 562 records available to such patient's parent or guardian through such secure website, unless the hospital 563 cannot make such health record available in a manner that prevents disclosure of information, the 564 disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent 565 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 566 Nursing Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of 567 Assembly of 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse 568 569 staffing hours per resident per day on average as determined annually by the Department of Medical 570 Assistance Services for use in the VBP program, utilizing job codes for the calculation of total nurse 571 staffing hours per resident per day following the Centers for Medicare and Medicaid Services (CMS) 572 definitions as of January 1, 2022, used for similar purposes and including certified nursing assistants, 573 licensed practical nurses, and registered nurses. No additional reporting shall be required by a certified 574 nursing facility under this subdivision.

575 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and 576 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 577 578 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot 579 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to 580 be contaminated with an infectious agent, those hemophiliacs who have received units of this 581 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot 582 that is known to be contaminated shall notify the recipient's attending physician and request that he 583 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, **584** return receipt requested, each recipient who received treatment from a known contaminated lot at the 585 individual's last known address.

586 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the 587 provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.