ENGROSSED

24100997D **HOUSE BILL NO. 353** 1 2 House Amendments in [] - January 30, 2024 3 A BILL to amend and reenact § 32.1-127, as it is currently effective and as it shall become effective, of 4 the Code of Virginia, relating to hospitals; emergency departments; licensed physicians. 5 Patron Prior to Engrossment—Delegate Hope 6 7 Referred to Committee on Health and Human Services 8 9 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 10 Virginia is amended and reenacted as follows: 11 12 § 32.1-127. (Effective until July 1, 2025) Regulations. 13 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in 14 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as 15 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 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.). 17 18 B. Such regulations: 19 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing 20 homes and certified nursing facilities to ensure the environmental protection and the life safety of its 21 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes 22 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and 23 certified nursing facilities, except those professionals licensed or certified by the Department of Health 24 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing 25 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; 26 27 2. Shall provide that at least one physician who is licensed to practice medicine in this the 28 Commonwealth and is primarily responsible for the emergency department shall be on eall duty and 29 physically present at all times, though not necessarily physically present on the premises, at each 30 hospital which that operates or holds itself out as operating an emergency service; 31 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; 32 33 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with 34 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 35 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization 36 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement 37 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of 38 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for 39 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in 40 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 41 42 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 43 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital 44 collaborates with the designated organ procurement organization to inform the family of each potential 45 46 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 47 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ 48 49 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 50 51 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement 52 organization in educating the staff responsible for contacting the organ procurement organization's 53 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 54 55 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 56 57 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, 58 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 61 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall 62 63 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother 64 and the infant be made and documented. Appropriate referrals may include, but need not be limited to, 65 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. 66 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to 67 the extent possible, the other parent of the infant and any members of the patient's extended family who 68 69 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, 70 71 subject to federal law restrictions, the community services board of the jurisdiction in which the woman 72 resides to appoint a discharge plan manager. The community services board shall implement and manage 73 the discharge plan;

74 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant75 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;

85 10. Shall require that each nursing home and certified nursing facility train all employees who are
86 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting
87 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 88 89 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication 90 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute 91 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable 92 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 93 94 not available within the period of time specified, co-signed by another physician or other person 95 authorized to give the order;

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

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

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

111 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;

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

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

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

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

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

152 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop 153 a policy governing determination of the medical and ethical appropriateness of proposed medical care, 154 which shall include (i) a process for obtaining a second opinion regarding the medical and ethical 155 appropriateness of proposed medical care in cases in which a physician has determined proposed care to 156 be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed 157 medical care is medically or ethically inappropriate by an interdisciplinary medical review committee 158 and a determination by the interdisciplinary medical review committee regarding the medical and ethical 159 appropriateness of the proposed health care; and (iii) requirements for a written explanation of the 160 decision reached by the interdisciplinary medical review committee, which shall be included in the 161 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 162 medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to 163 164 participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, 165 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 166 167 court review, provided that the patient, his agent, or the person authorized to make medical decisions 168 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 169 170 treatment is medically or ethically inappropriate is documented in the patient's medical record;

171 22. Shall require every hospital with an emergency department to establish a security plan. Such 172 security plan shall be developed using standards established by the International Association for 173 Healthcare Security and Safety or other industry standard and shall be based on the results of a security 174 risk assessment of each emergency department location of the hospital and shall include the presence of 175 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 176 177 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 178 179 of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in 180 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 181

182 response to weapons, defensive tactics, de-escalation techniques, appropriate physical restraint and 183 seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also 184 include instruction on safely addressing situations involving patients, family members, or other persons 185 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 186 187 the Department of Criminal Justice Services minimum training standards for auxiliary police officers as 188 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 189 emergency department if the hospital demonstrates that a different level of security is necessary and 190 191 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

200 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in 201 an existing hospital or nursing home, including beds located in a temporary structure or satellite location 202 operated by the hospital or nursing home, provided that the ability remains to safely staff services across 203 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 204 man-made disaster has caused the evacuation of a hospital or nursing home and that a public health 205 206 emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than 207 the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the 208 Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency 209 order for the purpose of suppressing a nuisance dangerous to public health or a communicable, 210 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
procedure for which the patient can reasonably be expected to require outpatient physical therapy as a
follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical
therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to
being discharged from the hospital;

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

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

236 28. During a public health emergency related to COVID-19, shall require each nursing home and 237 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with 238 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for 239 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 240 241 nursing facility, and community, under which in-person visits will be allowed and under which in-person 242 visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which 243 in-person visitors will be required to comply to protect the health and safety of the patients and staff of

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

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

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

276 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of 277 patients who are minors available to such patients through a secure website shall make such health 278 records available to such patient's parent or guardian through such secure website, unless the hospital 279 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 280 281 required in accordance with subsection E of § 54.1-2969 has not been provided.

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

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

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

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

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

302 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing 303 homes and certified nursing facilities to ensure the environmental protection and the life safety of its 304 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;

310
2. Shall provide that at least one physician who is licensed to practice medicine in this the
311 Commonwealth and is primarily responsible for the emergency department shall be on call duty and
312 physically present at all times, though not necessarily physically present on the premises, at each
313 hospital which that operates or holds itself out as operating an emergency service;

314 3. May classify hospitals and nursing homes by type of specialty or service and may provide for
 315 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 316 317 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 318 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization 319 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement 320 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 321 322 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in 323 Virginia certified by the Eye Bank Association of America or the American Association of Tissue 324 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least 325 one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, 326 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 327 collaborates with the designated organ procurement organization to inform the family of each potential 328 329 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making 330 contact with the family shall have completed a course in the methodology for approaching potential 331 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ 332 procurement organization and designed in conjunction with the tissue and eye bank community and (b) 333 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the 334 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement 335 organization in educating the staff responsible for contacting the organ procurement organization's 336 personnel on donation issues, the proper review of death records to improve identification of potential 337 donors, and the proper procedures for maintaining potential donors while necessary testing and 338 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 339 340 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; 341

342 5. Shall require that each hospital that provides obstetrical services establish a protocol for admission343 or transfer of any pregnant woman who presents herself while in labor;

344 6. Shall also require that each licensed hospital develop and implement a protocol requiring written 345 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall 346 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother 347 and the infant be made and documented. Appropriate referrals may include, but need not be limited to, 348 treatment services, comprehensive early intervention services for infants and toddlers with disabilities 349 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. 350 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to 351 the extent possible, the other parent of the infant and any members of the patient's extended family who 352 may participate in the follow-up care for the mother and the infant. Immediately upon identification, 353 pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, 354 subject to federal law restrictions, the community services board of the jurisdiction in which the woman 355 resides to appoint a discharge plan manager. The community services board shall implement and manage 356 the discharge plan;

357 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant358 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;

364 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

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367 limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

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

371 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or 372 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication 373 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute 374 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable 375 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 376 377 not available within the period of time specified, co-signed by another physician or other person 378 authorized to give the order;

379 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer
380 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
382 vaccination, in accordance with the most recent recommendations of the Advisory Committee on
383 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;

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399 16. Shall require that each nursing home and certified nursing facility shall, upon the request of the 400 facility's family council, send notices and information about the family council mutually developed by 401 the family council and the administration of the nursing home or certified nursing facility, and provided 402 to the facility for such purpose, to the listed responsible party or a contact person of the resident's 403 choice up to six times per year. Such notices may be included together with a monthly billing statement 404 or other regular communication. Notices and information shall also be posted in a designated location 405 within the nursing home or certified nursing facility. No family member of a resident or other resident 406 representative shall be restricted from participating in meetings in the facility with the families or 407 resident representatives of other residents in the facility;

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

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

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

422 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol
423 that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct
424 verbal communication between the on-call physician in the psychiatric unit and the referring physician,
425 if requested by such referring physician, and prohibits on-call physicians or other hospital staff from
426 refusing a request for such direct verbal communication by a referring physician and (ii) a patient for
427 whom there is a question regarding the medical stability or medical appropriateness of admission for

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

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

454 22. Shall require every hospital with an emergency department to establish a security plan. Such 455 security plan shall be developed using standards established by the International Association for 456 Healthcare Security and Safety or other industry standard and shall be based on the results of a security 457 risk assessment of each emergency department location of the hospital and shall include the presence of 458 at least one off-duty law-enforcement officer or trained security personnel who is present in the 459 emergency department at all times as indicated to be necessary and appropriate by the security risk 460 assessment. Such security plan shall be based on identified risks for the emergency department, 461 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 462 463 the community, in consultation with the emergency department medical director and nurse director. The 464 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 465 seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also 466 include instruction on safely addressing situations involving patients, family members, or other persons 467 468 who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are 469 experiencing a mental health crisis. Such training requirements may be satisfied through completion of 470 the Department of Criminal Justice Services minimum training standards for auxiliary police officers as 471 required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at least 472 one off-duty law-enforcement officer or trained security personnel be present at all times in the 473 emergency department if the hospital demonstrates that a different level of security is necessary and 474 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

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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;

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

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

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

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

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

548 30. During a declared public health emergency related to a communicable disease of public health
549 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to
550 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or

551 sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for 552 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 553 554 limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits 555 to be conducted virtually using interactive audio or video technology. Any such protocol may require the 556 person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the 557 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; 558

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

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

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

587 [2. That the provisions of this act shall become effective on July 1, 2025.]