HOUSE BILL NO. 87

Offered January 10, 2024

Prefiled December 28, 2023

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 Board of Health; hospital regulations; patient drug testing. 6 Patrons—Green, Walker and Zehr 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 January 1, 2024, 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 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing 25 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 29 Commonwealth shall be on call at all times, though not necessarily physically present on the premises, 30 at each hospital which 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 41 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least 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 45 collaborates with the designated organ procurement organization to inform the family of each potential 46 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making 47 contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ 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;

|/31/24 10:15

24101205D

1

2

3

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 62 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall 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 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

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

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;

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

3 of 10

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

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 176 emergency department at all times as indicated to be necessary and appropriate by the security risk 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 189 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 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 arranges for air medical transportation services for a patient who does not have an emergency medical 193 194 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 204 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 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;

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

5 of 10

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;

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; and

282 32. Shall require each hospital to test patients who are presenting with overdose symptoms for 283 fentanyl and to test for fentanyl, marijuana, amphetamines, opioids, and phencyclidine as a part of any 284 routine drug screening administered to a patient.

285 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and 286 certified nursing facilities may operate adult day care centers.

287 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for 288 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot 289 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to 290 be contaminated with an infectious agent, those hemophiliacs who have received units of this 291 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot 292 that is known to be contaminated shall notify the recipient's attending physician and request that he 293 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, 294 return receipt requested, each recipient who received treatment from a known contaminated lot at the 295 individual's last known address.

296 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the 297 provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal. 298

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

299 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in 300 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as 301 established and recognized by medical and health care professionals and by specialists in matters of 302 public health and safety, including health and safety standards established under provisions of Title 303 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.). 304 B. Such regulations:

305 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing 306 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 307 308 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and 309 certified nursing facilities, except those professionals licensed or certified by the Department of Health 310 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing 311 services to patients in their places of residence; and (v) policies related to infection prevention, disaster 312 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

313 2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, 314 315 at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for 316 317 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

318 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with 319 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 320 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement 321 322 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of 323 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for 324 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in 325 Virginia certified by the Eye Bank Association of America or the American Association of Tissue 326 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least 327 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 328 329 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential 330 331 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making 332 contact with the family shall have completed a course in the methodology for approaching potential 333 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ 334 procurement organization and designed in conjunction with the tissue and eye bank community and (b) 335 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the 336 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement 337 organization in educating the staff responsible for contacting the organ procurement organization's 338 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 339 placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, 340 341 without exception, unless the family of the relevant decedent or patient has expressed opposition to 342 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, 343 and no donor card or other relevant document, such as an advance directive, can be found;

344 5. Shall require that each hospital that provides obstetrical services establish a protocol for admission 345 or transfer of any pregnant woman who presents herself while in labor;

346 6. Shall also require that each licensed hospital develop and implement a protocol requiring written 347 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall 348 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother 349 and the infant be made and documented. Appropriate referrals may include, but need not be limited to, 350 treatment services, comprehensive early intervention services for infants and toddlers with disabilities 351 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to 352 353 the extent possible, the other parent of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, 354 355 pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, 356 subject to federal law restrictions, the community services board of the jurisdiction in which the woman 357 resides to appoint a discharge plan manager. The community services board shall implement and manage 358 the discharge plan;

359 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant 360 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 361 362 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 363 364 patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services; 365 366

9. Shall establish standards and maintain a process for designation of levels or categories of care in

7 of 10

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;

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

373 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or 374 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication 375 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute 376 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable 377 period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and 378 regulations or hospital policies and procedures, by the person giving the order, or, when such person is 379 not available within the period of time specified, co-signed by another physician or other person 380 authorized to give the order:

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

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

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

396
397
398
398
398
398
398
398
398
398
399
399
400
397
398
398
398
399
399
399
390
391
391
392
393
394
395
396
397
398
398
398
398
398
398
399
399
399
399
390
391
391
392
393
394
395
395
396
397
398
398
398
399
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398
398

401 16. Shall require that each nursing home and certified nursing facility shall, upon the request of the 402 facility's family council, send notices and information about the family council mutually developed by 403 the family council and the administration of the nursing home or certified nursing facility, and provided 404 to the facility for such purpose, to the listed responsible party or a contact person of the resident's 405 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 406 407 within the nursing home or certified nursing facility. No family member of a resident or other resident 408 representative shall be restricted from participating in meetings in the facility with the families or 409 resident representatives of other residents in the facility;

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

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

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

424 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol
425 that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct
426 verbal communication between the on-call physician in the psychiatric unit and the referring physician,
427 if requested by such referring physician, and prohibits on-call physicians or other hospital staff from

428 refusing a request for such direct verbal communication by a referring physician and (ii) a patient for 429 whom there is a question regarding the medical stability or medical appropriateness of admission for 430 inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call 431 physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct 432 verbal communication, either in person or via telephone, with a clinical toxicologist or other person who 433 is a Certified Specialist in Poison Information employed by a poison control center that is accredited by 434 the American Association of Poison Control Centers to review the results of the toxicology screen and 435 determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician; 436

437 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, 438 439 which shall include (i) a process for obtaining a second opinion regarding the medical and ethical 440 appropriateness of proposed medical care in cases in which a physician has determined proposed care to 441 be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed 442 medical care is medically or ethically inappropriate by an interdisciplinary medical review committee 443 and a determination by the interdisciplinary medical review committee regarding the medical and ethical 444 appropriateness of the proposed health care; and (iii) requirements for a written explanation of the 445 decision reached by the interdisciplinary medical review committee, which shall be included in the 446 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 447 448 medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to 449 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 450 451 legal counsel to represent the patient or from seeking other remedies available at law, including seeking 452 court review, provided that the patient, his agent, or the person authorized to make medical decisions 453 pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the 454 hospital within 14 days of the date on which the physician's determination that proposed medical 455 treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish a security plan. Such 456 457 security plan shall be developed using standards established by the International Association for 458 Healthcare Security and Safety or other industry standard and shall be based on the results of a security 459 risk assessment of each emergency department location of the hospital and shall include the presence of 460 at least one off-duty law-enforcement officer or trained security personnel who is present in the 461 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, 462 463 including trauma level designation, overall volume, volume of psychiatric and forensic patients, incidents 464 of violence against staff, and level of injuries sustained from such violence, and prevalence of crime in 465 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 466 response to weapons, defensive tactics, de-escalation techniques, appropriate physical restraint and 467 seclusion techniques, crisis intervention, and trauma-informed approaches. Such training shall also 468 469 include instruction on safely addressing situations involving patients, family members, or other persons 470 who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are 471 experiencing a mental health crisis. Such training requirements may be satisfied through completion of 472 the Department of Criminal Justice Services minimum training standards for auxiliary police officers as 473 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 474 475 476 appropriate for any of its emergency departments based upon findings in the security risk assessment;

477 23. Shall require that each hospital establish a protocol requiring that, before a health care provider 478 arranges for air medical transportation services for a patient who does not have an emergency medical 479 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized 480 representative with written or electronic notice that the patient (i) may have a choice of transportation by 481 an air medical transportation provider or medically appropriate ground transportation by an emergency 482 medical services provider and (ii) will be responsible for charges incurred for such transportation in the 483 event that the provider is not a contracted network provider of the patient's health insurance carrier or 484 such charges are not otherwise covered in full or in part by the patient's health insurance plan;

485 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

HB87

490 man-made disaster has caused the evacuation of a hospital or nursing home and that a public health 491 emergency exists due to a shortage of hospital or nursing home beds or (ii) for a period of no more than 492 the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the 493 Board, pursuant to § 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency 494 order for the purpose of suppressing a nuisance dangerous to public health or a communicable, 495 contagious, or infectious disease or other danger to the public life and health;

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

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

504 27. Shall require each hospital with an emergency department to establish a protocol for the 505 treatment and discharge of individuals experiencing a substance use-related emergency, which shall 506 include provisions for (i) appropriate screening and assessment of individuals experiencing substance 507 use-related emergencies to identify medical interventions necessary for the treatment of the individual in 508 the emergency department and (ii) recommendations for follow-up care following discharge for any 509 patient identified as having a substance use disorder, depression, or mental health disorder, as 510 appropriate, which may include, for patients who have been treated for substance use-related 511 emergencies, including opioid overdose, or other high-risk patients, (a) the dispensing of naloxone or 512 other opioid antagonist used for overdose reversal pursuant to subsection X of § 54.1-3408 at discharge 513 or (b) issuance of a prescription for and information about accessing naloxone or other opioid antagonist 514 used for overdose reversal, including information about accessing naloxone or other opioid antagonist 515 used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the 516 hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid 517 antagonist used for overdose reversal without a prescription pursuant to a statewide standing order. Such 518 protocols may also provide for referrals of individuals experiencing a substance use-related emergency to 519 peer recovery specialists and community-based providers of behavioral health services, or to providers of 520 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

521 28. During a public health emergency related to COVID-19, shall require each nursing home and 522 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with 523 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for 524 Medicare and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the 525 conditions, including conditions related to the presence of COVID-19 in the nursing home, certified 526 nursing facility, and community, under which in-person visits will be allowed and under which in-person 527 visits will not be allowed and visits will be required to be virtual; (ii) the requirements with which 528 in-person visitors will be required to comply to protect the health and safety of the patients and staff of 529 the nursing home or certified nursing facility; (iii) the types of technology, including interactive audio or 530 video technology, and the staff support necessary to ensure visits are provided as required by this 531 subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a 532 technology failure, service interruption, or documented emergency that prevents visits from occurring as 533 required by this subdivision. Such protocol shall also include (a) a statement of the frequency with 534 which visits, including virtual and in-person, where appropriate, will be allowed, which shall be at least 535 once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's 536 personal representative to waive or limit visitation, provided that such waiver or limitation is included in 537 the patient's health record; and (c) a requirement that each nursing home and certified nursing facility 538 publish on its website or communicate to each patient or the patient's authorized representative, in 539 writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits 540 to patients as required by this subdivision;

541 29. Shall require each hospital, nursing home, and certified nursing facility to establish and 542 implement policies to ensure the permissible access to and use of an intelligent personal assistant 543 provided by a patient, in accordance with such regulations, while receiving inpatient services. Such 544 policies shall ensure protection of health information in accordance with the requirements of the federal 545 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 546 547 electronic device and a specialized software application designed to assist users with basic tasks using a 548 combination of natural language processing and artificial intelligence, including such combinations 549 known as "digital assistants" or "virtual assistants";

550 30. During a declared public health emergency related to a communicable disease of public health

551 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to 552 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for 553 554 Medicare and Medicaid Services and subject to compliance with any executive order, order of public 555 health, Department guidance, or any other applicable federal or state guidance having the effect of 556 limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits 557 to be conducted virtually using interactive audio or video technology. Any such protocol may require the 558 person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the 559 hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the 560 person, patients, and staff of the hospital, nursing home, or certified nursing facility;

561 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of 562 patients who are minors available to such patients through a secure website shall make such health 563 records available to such patient's parent or guardian through such secure website, unless the hospital 564 cannot make such health record available in a manner that prevents disclosure of information, the 565 disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent 566 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 567 Nursing Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of 568 569 Assembly of 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse 570 staffing hours per resident per day on average as determined annually by the Department of Medical Assistance Services for use in the VBP program, utilizing job codes for the calculation of total nurse 571 572 staffing hours per resident per day following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for similar purposes and including certified nursing assistants, 573 licensed practical nurses, and registered nurses. No additional reporting shall be required by a certified 574 575 nursing facility under this subdivision; and

576 33. Shall require each hospital to test patients who are presenting with overdose symptoms for
577 fentanyl and to test for fentanyl, marijuana, amphetamines, opioids, and phencyclidine as a part of any
578 routine drug screening administered to a patient.

579 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and 580 certified nursing facilities may operate adult day care centers.

581 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for 582 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot 583 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to **584** be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot 585 586 that is known to be contaminated shall notify the recipient's attending physician and request that he 587 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, 588 return receipt requested, each recipient who received treatment from a known contaminated lot at the 589 individual's last known address.

590 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the 591 provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.