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**HOUSE BILL NO. 1524****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Counties, Cities and Towns  
on February 9, 1996)

(Patron Prior to Substitute—Delegate Hall)

*A BILL to amend and reenact §§ 2.1-1.5, 2.1-20.1 as it is currently effective and as it may become effective, 2.1-116, 2.1-342, 2.1-344, 9-156, 9-166.2, 23-50.11, 23-232, 32.1-85, and 51.1-126.1 of the Code of Virginia, and to amend the Code of Virginia by adding in Title 23 a chapter numbered 6.2, consisting of sections numbered 23-50.15:2 through 23-50.15:45, and by adding a section numbered 51.1-126.2, relating to the Medical College of Virginia Hospitals Authority.*

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

**1. That §§ 2.1-1.5, 2.1-20.1 as it is currently effective and as it may become effective, 2.1-116, 2.1-342, 2.1-344, 9-156, 9-166.2, 23-50.11, 23-232, 32.1-85, and 51.1-126.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 23 a chapter numbered 6.2, consisting of sections numbered 23-50.15:2 through 23-50.15:45, and by adding a section numbered 51.1-126.2, as follows:**

§ 2.1-1.5. Entities not subject to standard nomenclature.

(Effective until July 1, 1996) The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or enabling legislation of the entities:

(Effective July 1, 1996) The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

**Authorities**

Assistive Technology Loan Fund Authority.

Medical College of Virginia Hospitals Authority

Richmond Eye and Ear Hospital Authority.

Small Business Financing Authority.

State Education Assistance Authority.

Virginia Agriculture Development Authority.

Virginia College Building Authority.

Virginia Economic Development Partnership.

Virginia Education Loan Authority.

Virginia Housing Development Authority.

Virginia Innovative Technology Authority.

Virginia Port Authority.

Virginia Public Building Authority.

Virginia Public School Authority.

Virginia Resources Authority.

Virginia Student Assistance Authorities.

**Boards**

Board of Commissioners, Virginia Agriculture Development Authority.

Board of Commissioners, Virginia Port Authority.

Board of Directors, Assistive Technology Loan Fund Authority.

Board of Directors, Medical College of Virginia Hospitals Authority.

Board of Directors, Richmond Eye and Ear Hospital Authority.

Board of Directors, Small Business Financing Authority.

Board of Directors, Virginia Economic Development Partnership.

Board of Directors, Virginia Student Assistance Authorities.

Board of Directors, Virginia Innovative Technology Authority.

Board of Directors, Virginia Resources Authority.

Board of Regents, Gunston Hall Plantation.

Board of Regents, James Monroe Memorial Law Office and Library.

Board of Trustees, Family and Children's Trust Fund.

Board of Trustees, Frontier Culture Museum of Virginia.

Board of Trustees, Jamestown-Yorktown Foundation.

Board of Trustees, Miller School of Albemarle.

Board of Trustees, Rural Virginia Development Foundation.

Board of Trustees, The Science Museum of Virginia.

Board of Trustees, Virginia Museum of Fine Arts.

Board of Trustees, Virginia Museum of Natural History.

60 Board of Trustees, Virginia Outdoor Foundation.  
61 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund.  
62 Board of Visitors, Christopher Newport University.  
63 Board of Visitors, The College of William and Mary in Virginia.  
64 Board of Visitors, George Mason University.  
65 Board of Visitors, Gunston Hall Plantation.  
66 Board of Visitors, James Madison University.  
67 Board of Visitors, Longwood College.  
68 Board of Visitors, Mary Washington College.  
69 Board of Visitors to Mount Vernon.  
70 Board of Visitors, Norfolk State University.  
71 Board of Visitors, Old Dominion University.  
72 Board of Visitors, Radford University.  
73 Board of Visitors, University of Virginia.  
74 Board of Visitors, Virginia Commonwealth University.  
75 Board of Visitors, Virginia Military Institute.  
76 Board of Visitors, Virginia Polytechnic Institute and State University.  
77 Board of Visitors, Virginia State University.  
78 Governing Board, Virginia College Building Authority.  
79 Governing Board, Virginia Public School Authority.  
80 Library Board, The Library of Virginia.  
81 Motor Vehicle Dealer Board.  
82 State Board for Community Colleges, Virginia Community College System.  
83 Commissions  
84 Alexandria Historical Restoration and Preservation Commission.  
85 (Effective July 1, 1996) Charitable Gaming Commission  
86 Chesapeake Bay Bridge and Tunnel Commission.  
87 Hampton Roads Sanitation District Commission.  
88 Districts  
89 Chesapeake Bay Bridge and Tunnel District.  
90 Hampton Roads Sanitation District.  
91 Educational Institutions  
92 Christopher Newport University.  
93 College of William and Mary in Virginia.  
94 Frontier Culture Museum of Virginia.  
95 George Mason University.  
96 James Madison University.  
97 Jamestown-Yorktown Foundation.  
98 Longwood College.  
99 Mary Washington College.  
100 Miller School of Albemarle.  
101 Norfolk State University.  
102 Old Dominion University.  
103 Radford University.  
104 The Science Museum of Virginia.  
105 University of Virginia.  
106 Virginia Commonwealth University.  
107 Virginia Community College System.  
108 Virginia Military Institute.  
109 Virginia Museum of Fine Arts.  
110 Virginia Polytechnic Institute and State University.  
111 The Library of Virginia.  
112 Virginia State University.  
113 Foundations  
114 Chippokes Plantation Farm Foundation.  
115 Rural Virginia Development Foundation.  
116 Virginia Conservation and Recreation Foundation.  
117 Virginia Historic Preservation Foundation.  
118 Virginia Outdoor Foundation.  
119 Museum  
120 Virginia Museum of Natural History.  
121 Plantation

Gunston Hall Plantation.  
System

Virginia Retirement System.

§ 2.1-20.1. (For effective date - See note) Health and related insurance for state employees.

A. 1. The Governor shall establish a plan for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of Personnel and Training shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

2. Such contribution shall be financed through appropriations provided by law.

B. 1. The plan shall include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

2. The plan shall include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance program. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund.

D. For the purposes of this section, the term "state employee" means state employee as defined in § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, and interns and residents employed by the Medical College of Virginia of Virginia Commonwealth University and the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Medical College of Virginia Hospitals Authority as provided in § 23-50.15:33.

E. Provisions shall be made for retired employees to obtain coverage under the above plan. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

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

§ 2.1-20.1. (Delayed effective date - See notes) Health and related insurance for state employees.

A. 1. The Governor shall establish a plan for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of Personnel and Training shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

2. Such contribution shall be financed through appropriations provided by law.

B. 1. The plan shall include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, one such mammogram annually to persons age fifty and over and may be limited to

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184 factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean  
185 an X-ray examination of the breast using equipment dedicated specifically for mammography, including  
186 but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an  
187 average radiation exposure of less than one rad mid-breast, two views of each breast.

188 2. The plan shall include coverage for the treatment of breast cancer by dose-intensive chemotherapy  
189 with autologous bone marrow transplants or stem cell support when performed at a clinical program  
190 authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer  
191 Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the  
192 existence of a preexisting condition.

193 C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from  
194 such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be  
195 deposited in the employee health insurance fund, from which payments for claims, premiums, cost  
196 containment programs and administrative expenses shall be withdrawn from time to time. The assets of  
197 the fund shall be held for the sole benefit of the employee health insurance program. The fund shall be  
198 held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of  
199 the fund.

200 D. For the purposes of this section, the term "state employee" means state employee as defined in  
201 § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney  
202 General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of district courts of the  
203 Commonwealth, and interns and residents employed by the Medical College of Virginia of Virginia  
204 Commonwealth University and the School of Medicine and Hospital of the University of Virginia, and  
205 interns, residents, and employees of the Medical College of Virginia Hospitals Authority as provided in  
206 § 23-50.15:33.

207 E. Provisions shall be made for retired employees to obtain coverage under the above plan. The  
208 Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

209 F. Any self-insured group health insurance plan established by the Department of Personnel and  
210 Training which utilizes a network of preferred providers shall not exclude any physician solely on the  
211 basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets  
212 the plan criteria established by the Department.

213 § 2.1-116. Certain officers and employees exempt from chapter.

214 The provisions of this chapter shall not apply to:

215 1. Officers and employees for whom the Constitution specifically directs the manner of selection;

216 2. Officers and employees of the Supreme Court and the Court of Appeals;

217 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either  
218 house thereof is required or not;

219 4. Officers elected by popular vote or by the General Assembly or either house thereof;

220 5. Members of boards and commissions however selected;

221 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
222 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and  
223 notaries public;

224 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
225 special inquiries, investigations, or examinations on its behalf;

226 8. The presidents, and teaching and research staffs of state educational institutions;

227 9. Commissioned officers and enlisted personnel of the national guard and the naval militia;

228 10. Student employees in institutions of learning, and patient or inmate help in other state  
229 institutions;

230 11. Upon general or special authorization of the Governor, laborers, temporary employees and  
231 employees compensated on an hourly or daily basis;

232 12. County, city, town and district officers, deputies, assistants and employees;

233 13. The employees of the Virginia Workers' Compensation Commission;

234 14. The following officers and employees of the Virginia Retirement System: retirement system chief  
235 investment officer, retirement system investment officer, retirement system assistant investment officer  
236 and investment financial analyst;

237 15. Employees whose positions are identified by the State Council of Higher Education and the  
238 boards of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Jamestown-Yorktown  
239 Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History and The  
240 Library of Virginia, and approved by the Director of the Department of Personnel and Training as  
241 requiring specialized and professional training;

242 16. Employees of the State Lottery Department;

243 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs; and

244 18. Employees of the Medical College of Virginia Hospitals and the University of Virginia Medical

Center who are determined by the Department of Personnel and Training to be health care providers; however, any changes in compensation plans for such employees shall be subject to the review and approval of the Secretary of Education. Such employees shall remain subject to the provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1; and

19. *Employees of the Medical College of Virginia Hospitals Authority; and*

20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions, shall be deemed to serve on an employment at will basis. An agency may not exceed two employees who serve in this exempt capacity.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.

A. Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within five work days after the receipt of the request by the public body which is the custodian of the requested records. Such citizen request shall designate the requested records with reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall not be necessary to invoke the provisions of this chapter and the time limits for response by the public body. The response by the public body within such five work days shall be one of the following responses:

1. The requested records shall be provided to the requesting citizen.

2. If the public body determines that an exemption applies to all of the requested records, it may refuse to release such records and provide to the requesting citizen a written explanation as to why the records are not available with the explanation making specific reference to the applicable Code sections which make the requested records exempt.

3. If the public body determines that an exemption applies to a portion of the requested records, it may delete or excise that portion of the records to which an exemption applies, but shall disclose the remainder of the requested records and provide to the requesting citizen a written explanation as to why these portions of the record are not available to the requesting citizen with the explanation making specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.

4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records. The public body may also make a reasonable charge for preparing documents produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records or documents, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must

306 respond under this section shall be tolled for the amount of time that elapses between notice of the  
307 advance determination and the response of the citizen requesting the information.

308 Official records maintained by a public body on a computer or other electronic data processing  
309 system which are available to the public under the provisions of this chapter shall be made reasonably  
310 accessible to the public at reasonable cost.

311 Public bodies shall not be required to create or prepare a particular requested record if it does not  
312 already exist. Public bodies may, but shall not be required to, abstract or summarize information from  
313 official records or convert an official record available in one form into another form at the request of  
314 the citizen. The public body shall make reasonable efforts to reach an agreement with the requester  
315 concerning the production of the records requested.

316 Failure to make any response to a request for records shall be a violation of this chapter and deemed  
317 a denial of the request.

318 B. The following records are excluded from the provisions of this chapter but may be disclosed by  
319 the custodian in his discretion, except where such disclosure is prohibited by law:

320 1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult  
321 arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such  
322 time as the release of such photograph will no longer jeopardize the investigation; reports submitted to  
323 the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police  
324 departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of  
325 Title 23 in confidence; portions of records of local government crime commissions that would identify  
326 individuals providing information about crimes or criminal activities under a promise of anonymity;  
327 records of local police departments relating to neighborhood watch programs that include the names,  
328 addresses, and operating schedules of individual participants in the program that are provided to such  
329 departments under a promise of confidentiality; and all records of persons imprisoned in penal  
330 institutions in the Commonwealth provided such records relate to the imprisonment. Information in the  
331 custody of law-enforcement officials relative to the identity of any individual other than a juvenile who  
332 is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions  
333 of this chapter.

334 Criminal incident information relating to felony offenses shall not be excluded from the provisions of  
335 this chapter; however, where the release of criminal incident information is likely to jeopardize an  
336 ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection,  
337 or result in the destruction of evidence, such information may be withheld until the above-referenced  
338 damage is no longer likely to occur from release of the information.

339 2. (Effective until July 1, 1996) Confidential records of all investigations of applications for licenses  
340 and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control  
341 Board, the State Lottery Department or the Virginia Racing Commission.

342 2. (Effective July 1, 1996) Confidential records of all investigations of applications for licenses and  
343 permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control  
344 Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming  
345 Commission.

346 3. State income, business, and estate tax returns, personal property tax returns, scholastic records and  
347 personnel records containing information concerning identifiable individuals, except that such access  
348 shall not be denied to the person who is the subject thereof, and medical and mental records, except that  
349 such records can be personally reviewed by the subject person or a physician of the subject person's  
350 choice; however, the subject person's mental records may not be personally reviewed by such person  
351 when the subject person's treating physician has made a part of such person's records a written statement  
352 that in his opinion a review of such records by the subject person would be injurious to the subject  
353 person's physical or mental health or well-being.

354 Where the person who is the subject of medical records is confined in a state or local correctional  
355 facility, the administrator or chief medical officer of such facility may assert such confined person's right  
356 of access to the medical records if the administrator or chief medical officer has reasonable cause to  
357 believe that such confined person has an infectious disease or other medical condition from which other  
358 persons so confined need to be protected. Medical records shall be reviewed only and shall not be  
359 copied by such administrator or chief medical officer. The information in the medical records of a  
360 person so confined shall continue to be confidential and shall not be disclosed to any person except the  
361 subject by the administrator or chief medical officer of the facility or except as provided by law.

362 For the purposes of this chapter such statistical summaries of incidents and statistical data concerning  
363 patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental  
364 Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in  
365 subsection A of this section. No such summaries or data shall include any patient-identifying  
366 information. Where the person who is the subject of scholastic or medical and mental records is under  
367 the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a

noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992 nor shall this exclusion apply to agenda packets prepared and distributed to public bodies for use at a meeting.

Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of the General Assembly held by the Division of Legislative Services shall not be released by the Division without the prior consent of the member.

5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

7. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

8. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

9. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

14. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or

429 staff of state institutions of higher learning, other than the institutions' financial or administrative  
430 records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly  
431 issues, whether sponsored by the institution alone or in conjunction with a governmental body or a  
432 private concern, where such data, records or information has not been publicly released, published,  
433 copyrighted or patented.

434 18. Financial statements not publicly available filed with applications for industrial development  
435 financings.

436 19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,  
437 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by  
438 the political subdivision.

439 20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise  
440 of confidentiality from the Department of Economic Development, the Virginia Economic Development  
441 Partnership, or local or regional industrial or economic development authorities or organizations, used by  
442 the Department, the Partnership, or such entities for business, trade and tourism development; and  
443 memoranda, working papers or other records related to businesses that are considering locating or  
444 expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and  
445 where, if such records are made public, the financial interest of the governmental unit would be  
446 adversely affected.

447 21. Information which was filed as confidential under the Toxic Substances Information Act  
448 (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

449 22. Documents as specified in § 58.1-3.

450 23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis  
451 center or a program for battered spouses.

452 24. Computer software developed by or for a state agency, state-supported institution of higher  
453 education or political subdivision of the Commonwealth.

454 25. Investigator notes, and other correspondence and information, furnished in confidence with  
455 respect to an active investigation of individual employment discrimination complaints made to the  
456 Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of  
457 information taken from inactive reports in a form which does not reveal the identity of charging parties,  
458 persons supplying the information or other individuals involved in the investigation.

459 26. Fisheries data which would permit identification of any person or vessel, except when required  
460 by court order as specified in § 28.2-204.

461 27. Records of active investigations being conducted by the Department of Medical Assistance  
462 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

463 28. Documents and writings furnished by a member of the General Assembly to a meeting of a  
464 standing committee, special committee or subcommittee of his house established solely for the purpose  
465 of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or  
466 of formulating advisory opinions to members on standards of conduct, or both.

467 29. Customer account information of a public utility affiliated with a political subdivision of the  
468 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
469 service provided and the amount of money paid for such utility service.

470 30. Investigative notes and other correspondence and information furnished in confidence with  
471 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice  
472 under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit  
473 the distribution of information taken from inactive reports in a form which does not reveal the identity  
474 of the parties involved or other persons supplying information.

475 31. Investigative notes; proprietary information not published, copyrighted or patented; information  
476 obtained from employee personnel records; personally identifiable information regarding residents,  
477 clients or other recipients of services; and other correspondence and information furnished in confidence  
478 to the Department of Social Services in connection with an active investigation of an applicant or  
479 licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however,  
480 nothing in this section shall prohibit disclosure of information from the records of completed  
481 investigations in a form that does not reveal the identity of complainants, persons supplying information,  
482 or other individuals involved in the investigation.

483 32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other  
484 information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or  
485 any institution thereof to the extent, as determined by the Director of the Department of Corrections or  
486 his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth  
487 and Family Services or any facility thereof to the extent as determined by the Director of the  
488 Department of Youth and Family Services, or his designee, that disclosure or public dissemination of  
489 such materials would jeopardize the security of any correctional or juvenile facility or institution, as  
490 follows:



- (i) Security manuals, including emergency plans that are a part thereof;
- (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;
- (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;
- (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
- (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
- (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;
- (vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and
- (viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.
- Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.
33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.
34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.
35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.
36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.
37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.
38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.
39. Those portions of engineering and construction drawings and plans submitted for the sole purpose

552 of complying with the building code in obtaining a building permit which would identify specific trade  
553 secrets or other information the disclosure of which would be harmful to the competitive position of the  
554 owner or lessee; however, such information shall be exempt only until the building is completed.  
555 Information relating to the safety or environmental soundness of any building shall not be exempt from  
556 disclosure.

557 40. [Repealed.]

558 41. Records concerning reserves established in specific claims administered by the Department of  
559 General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et  
560 seq.) of Chapter 32 of this title, or by any county, city, or town.

561 42. Information and records collected for the designation and verification of trauma centers and other  
562 specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

563 43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

564 44. [Repealed.]

565 45. Investigative notes; correspondence and information furnished in confidence with respect to an  
566 investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided  
567 to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review  
568 Commission; or investigative notes, correspondence, documentation and information furnished and  
569 provided to or produced by or for the Department of the State Internal Auditor with respect to an  
570 investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this  
571 chapter shall prohibit disclosure of information from the records of completed investigations in a form  
572 that does not reveal the identity of complainants, persons supplying information or other individuals  
573 involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of  
574 information from the records of completed investigations shall include, but is not limited to, the agency  
575 involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and  
576 the actions taken to resolve the complaint. In the event an investigation does not lead to corrective  
577 action, the identity of the person who is the subject of the complaint may be released only with the  
578 consent of the subject person.

579 46. Data formerly required to be submitted to the Commissioner of Health relating to the  
580 establishment of new or expansion of existing clinical health services, acquisition of major medical  
581 equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

582 47. Documentation or other information which describes the design, function, operation or access  
583 control features of any security system, whether manual or automated, which is used to control access to  
584 or use of any automated data processing or telecommunications system.

585 48. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections  
586 provided to the Department of Rail and Public Transportation, provided such information is exempt  
587 under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws  
588 administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to  
589 data provided in confidence to the Interstate Commerce Commission and the Federal Railroad  
590 Administration.

591 49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and  
592 its wholly owned subsidiaries, (i) proprietary information provided by, and financial information  
593 concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition,  
594 acquisition, disposition, use, leasing, development, coventuring, or management of real estate the  
595 disclosure of which would have a substantial adverse impact on the value of such real estate or result in  
596 a competitive disadvantage to the corporation or subsidiary.

597 50. Confidential proprietary records related to inventory and sales, voluntarily provided by private  
598 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy  
599 contingency planning purposes or for developing consolidated statistical information on energy supplies.

600 51. Confidential proprietary information furnished to the Board of Medical Assistance Services or the  
601 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of  
602 Chapter 10 of Title 32.1.

603 52. Patient level data collected by the Virginia Health Services Cost Review Council and not yet  
604 processed, verified, and released, pursuant to § 9-166.7, to the Council by the nonprofit organization  
605 with which the Executive Director has contracted pursuant to § 9-166.4.

606 53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and  
607 cost projections provided by a private transportation business to the Virginia Department of  
608 Transportation and the Department of Rail and Public Transportation for the purpose of conducting  
609 transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface  
610 Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such  
611 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce  
612 Act or other laws administered by the Interstate Commerce Commission or the Federal Rail  
613 Administration with respect to data provided in confidence to the Interstate Commerce Commission and

the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

(i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

(ii) Surveillance techniques;

(iii) The installation, operation, or utilization of any alarm technology;

(iv) Engineering and architectural drawings of such government stores or warehouses;

(v) The transportation of merchandise, including routes and schedules; and

(vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

a. Number of employees present during each shift;

b. Busiest hours, with the maximum number of customers in such government store; and

c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

59. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

61. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

62. (i) *Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties; contract cost estimates prepared for confidential use and awarding of contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; customer account information; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies that affect the economic viability of the Authority, pursuant to § 23-50.15:42; and (ii) data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly*

675 *released, published, copyrighted or patented.*

676 C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this  
677 title shall be construed as denying public access to contracts between a public official and a public  
678 body, other than contracts settling public employee employment disputes held confidential as personnel  
679 records under subdivision 3 of subsection B of this section, or to records of the position, job  
680 classification, official salary or rate of pay of, and to records of the allowances or reimbursements for  
681 expenses paid to, any public officer, official or employee at any level of state, local or regional  
682 government in the Commonwealth or to the compensation or benefits paid by any corporation organized  
683 by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their  
684 officers or employees. The provisions of this subsection, however, shall not apply to records of the  
685 official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

686 § 2.1-344. Executive or closed meetings.

687 A. Public bodies are not required to conduct executive or closed meetings. However, should a public  
688 body determine that an executive or closed meeting is desirable, such meeting shall be held only for the  
689 following purposes:

690 1. Discussion, consideration or interviews of prospective candidates for employment; assignment,  
691 appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public  
692 officers, appointees or employees of any public body; and evaluation of performance of departments or  
693 schools of state institutions of higher education where such matters regarding such specific individuals  
694 might be affected by such evaluation. Any teacher shall be permitted to be present during an executive  
695 session or closed meeting in which there is a discussion or consideration of a disciplinary matter which  
696 involves the teacher and some student or students and the student or students involved in the matter are  
697 present, provided the teacher makes a written request to be present to the presiding officer of the  
698 appropriate board.

699 2. Discussion or consideration of admission or disciplinary matters concerning any student or  
700 students of any state institution of higher education or any state school system. However, any such  
701 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be  
702 permitted to be present during the taking of testimony or presentation of evidence at an executive or  
703 closed meeting, if such student, parents or guardians so request in writing and such request is submitted  
704 to the presiding officer of the appropriate board.

705 3. Discussion or consideration of the condition, acquisition or use of real property for public purpose,  
706 or of the disposition of publicly held property, or of plans for the future of a state institution of higher  
707 education which could affect the value of property owned or desirable for ownership by such institution.

708 4. The protection of the privacy of individuals in personal matters not related to public business.

709 5. Discussion concerning a prospective business or industry or expansion of an existing business or  
710 industry where no previous announcement has been made of the business' or industry's interest in  
711 locating or expanding its facilities in the community.

712 6. The investing of public funds where competition or bargaining is involved, where, if made public  
713 initially, the financial interest of the governmental unit would be adversely affected.

714 7. Consultation with legal counsel and briefings by staff members, consultants or attorneys,  
715 pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal  
716 advice by counsel.

717 8. In the case of boards of visitors of state institutions of higher education, discussion or  
718 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts  
719 for services or work to be performed by such institution. However, the terms and conditions of any such  
720 gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign  
721 person and accepted by a state institution of higher education shall be subject to public disclosure upon  
722 written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign  
723 government" means any government other than the United States government or the government of a  
724 state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the  
725 laws of the United States or of any state thereof if a majority of the ownership of the stock of such  
726 legal entity is owned by foreign governments or foreign persons or if a majority of the membership of  
727 any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under  
728 the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen  
729 or national of the United States or a trust territory or protectorate thereof.

730 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science  
731 Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and  
732 grants.

733 10. Discussion or consideration of honorary degrees or special awards.

734 11. Discussion or consideration of tests or examinations or other documents excluded from this  
735 chapter pursuant to § 2.1-342 B 9.

736 12. Discussion, consideration or review by the appropriate House or Senate committees of possible

disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in executive session.

13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions, and provisions of a siting agreement if the governing body in open meeting finds that an open meeting will have a detrimental effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting or executive session.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to § 2.1-342 B 3, and those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation or Department of Health Professions conducted pursuant to § 9-6.14:11 or § 9-6.14:12 during which the board deliberates to reach a decision.

16. Discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivisions 37 and 38 of subsection B of § 2.1-342.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding the placement in community diversion programs of individuals previously sentenced to state correctional facilities.

19. Those portions of meetings of the Virginia Health Services Cost Review Council in which the Council discusses filings of individual health care institutions which are confidential pursuant to subsection B of § 9-159.

20. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

21. Discussion of plans to protect public safety as it relates to terrorist activity.

22. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, discussion or consideration of (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

23. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

24. *In the case of the Medical College of Virginia Hospitals Authority, discussion or consideration of any of the following: the condition, acquisition, use or disposition of real or personal property; operational plans that could affect the value of property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies that could affect the economic viability of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluation of other employees pursuant to § 23-50.15:42.*

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in an executive or closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation or motion which shall have its substance reasonably identified in the open meeting. Nothing in this section shall be construed to require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.1-1373 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 of this section applies. However, such business or industry must be identified as a matter of public record at least thirty days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they

809 obtain notice of the legal defect in their election.

810 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
811 more public bodies, or their representatives, but these conferences shall be subject to the same  
812 regulations for holding executive or closed sessions as are applicable to any other public body.

813 § 9-156. Definitions.

814 As used in this chapter:

815 "Consumer" means any person (i) whose occupation is other than the administration of health  
816 activities or the provision of health services, (ii) who has no fiduciary obligation to a health care  
817 institution or other health agency or to any organization, public or private, whose principal activity is an  
818 adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering  
819 of health services.

820 "Council" means the Virginia Health Services Cost Review Council.

821 "Health care institution" means (i) a general hospital, ordinary hospital, outpatient surgical hospital,  
822 nursing home or certified nursing facility licensed or certified pursuant to Chapter 5, Article 1  
823 (§ 32.1-123 et seq.) of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8  
824 (§ 37.1-179 et seq.) of Title 37.1 or (iii) a hospital operated by the University of Virginia or ~~Virginia~~  
825 ~~Commonwealth University~~ the Medical College of Virginia Hospitals Authority. In no event shall such  
826 term be construed to include continuing care retirement communities which file annual financial reports  
827 with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, any  
828 physician's office, nursing care facility of a religious body which depends upon prayer alone for healing,  
829 independent laboratory, or outpatient clinic.

830 § 9-166.2. Definitions.

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

832 "Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1  
833 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et  
834 seq.) of Title 37.1, or a hospital operated by the University of Virginia or ~~Virginia Commonwealth~~  
835 ~~University~~ the Medical College of Virginia Hospitals Authority.

836 "Nonprofit organization" means a nonprofit, tax-exempt health data organization with expertise and  
837 capacity to execute the powers and duties set forth for such entity in this chapter.

838 "System" means the Virginia Patient Level Data System.

839 § 23-50.11. Tuition, fees and other charges.

840 The board may fix the rates charged the students of the University for tuition, fees and other  
841 necessary charges, and may fix and collect fees and charges for services rendered by or through any  
842 facilities maintained or conducted by the corporation.

843 The board is authorized and empowered to provide for the deposit with the treasurer or other proper  
844 officer of any hospital under its supervision, management or control, of any money which has been left  
845 on deposit in such hospital by discharged patients, after, in the exercise of reasonable diligence, the  
846 person or persons have been unable to be found, and after the lapse of three years from the date of the  
847 departure of such person or persons. All funds so received shall be deposited to the credit of the hospital  
848 division in a bank or banks, designated by the board of visitors, and shall be disbursed by the said  
849 officer, as directed by the board, for the benefit of hospitals under its control or for the benefit of the  
850 patients of such hospitals. However, the board of visitors shall have the authority to invest so much of  
851 the special fund as it may deem proper, in the United States government bonds or in other securities  
852 authorized by law for the investment of fiduciary funds, and the interest from such investments may be  
853 expended in the same manner as set forth above. Every action to recover money which has been left on  
854 deposit in such hospitals by discharged patients shall be brought within three years from the date of the  
855 patient's discharge.

## 856 CHAPTER 6.2.

### 857 MEDICAL COLLEGE OF VIRGINIA HOSPITALS AUTHORITY.

858 § 23-50.15:2. Short title.

859 This chapter shall be known and may be cited as the "Medical College of Virginia Hospitals  
860 Authority Act."

861 § 23-50.15:3. Findings and declaration of necessity.

862 The General Assembly finds that:

863 1. Provision of health care, including indigent care, is a vital governmental function protecting and  
864 promoting the health and welfare of the citizens of the Commonwealth;

865 2. Education of medical and health sciences professionals and the performance of medical and  
866 related research is essential to promote such health care;

867 3. Teaching hospitals and related facilities of high quality are essential both to provide high levels of  
868 health care and to promote medical and health sciences education, because such hospitals and related  
869 facilities (i) provide facilities necessary to train physicians and other health science professionals, (ii)  
870 provide medical services not generally available at other hospitals, and (iii) treat patients of the type

and on the scale necessary to facilitate medical research and to attract physicians, faculty members, researchers and other persons necessary to maintain quality medical and health sciences education;

4. The missions of the Medical College of Virginia Hospitals are (i) to serve as a general hospital and health care facility, (ii) to facilitate and support the health education, research and public service activities of the Health Sciences Schools of the Medical College of Virginia, Health Sciences Division of Virginia Commonwealth University, (iii) to provide high quality patient care and other specialized health services not widely available in the Commonwealth, (iv) to serve as the principal teaching and training hospital for undergraduate and graduate students of the Schools of the Health Sciences Division of Virginia Commonwealth University, and (v) to provide a site for faculty members of the Health Sciences Division of Virginia Commonwealth University to conduct medical and biomedical research, all of which missions constitute vital governmental functions for protecting and promoting the health and welfare of the citizens of the Commonwealth;

5. Such hospital, health care and related facilities require specialized management and operation to remain economically viable, to earn revenues necessary for their operation, and to engage in cooperative arrangements with public and private entities and other activities, taking into account changes that have occurred or may occur in the future in the provision of health care and related services; and

6. The needs of the citizens of the Commonwealth and the needs of the Health Sciences Division of Virginia Commonwealth University will best be served if the Medical College of Virginia Hospitals are transferred to and operated by an independent public authority charged with the missions of operating such Hospitals as teaching hospitals for the benefit of the Schools of the Health Sciences Division of Virginia Commonwealth University, providing high quality patient care, and providing a site for medical and biomedical research, all in close affiliation with the Health Sciences Division of Virginia Commonwealth University so that the public authority does not duplicate or compete with the undergraduate and graduate programs, research, training and teaching facilities offered at or operated by the University.

The exercise of the powers permitted by this chapter shall be deemed the performance of essential governmental functions and matters of public necessity for the entire Commonwealth in the provision of health care, medical and health sciences education and research, for which public moneys may be borrowed, loaned, spent or otherwise utilized and for which private property may be utilized or acquired.

§ 23-50.15:4. Authority created; purposes.

A. There is hereby created as a public body corporate and as a political subdivision of the Commonwealth, the Medical College of Virginia Hospitals Authority, referred to in this chapter as the Authority, with such public and corporate powers as are set forth in this chapter. The Authority is hereby constituted a public instrumentality, exercising public and essential governmental functions with the power and purpose to provide for the health, welfare, convenience, knowledge, benefit and prosperity of the residents of the Commonwealth and such other persons who might be served by the Authority by delivering and supporting the delivery of medical care and related services to such residents and persons, by providing educational opportunities in the medical field and related disciplines, by conducting and facilitating research in the medical field and related disciplines, and by enhancing the delivery of health care and related services to the Commonwealth's indigent population.

B. The Authority is authorized to provide, promote, support and sponsor education, public knowledge and scientific research in medicine, public health and related fields; to administer programs to assist in the delivery of medical and related services to the citizens of the Commonwealth and others; and to participate in and administer federal, state and local programs affecting, supporting or carrying out any of its purposes. The Authority is further authorized to exercise independently the powers conferred by this chapter in furtherance of its corporate and public purposes, and the Authority is directed to undertake the operation of teaching hospitals and related facilities and to maintain and, as appropriate, to expand the same, all for the benefit of the Commonwealth, its citizens and such other persons who might be served by the Authority.

§ 23-50.15:5. Definitions.

As used in this chapter, the following terms have the following meanings, unless the context requires otherwise:

"Authority" means the Medical College of Virginia Hospitals Authority.

"Board" means the Board of Directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates or other evidences of indebtedness or deferred purchase financing arrangements.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means agreements or arrangements among the Medical College of Virginia Hospitals Authority, the hospitals or health care businesses which have contracted to operate and

921 manage any or all of the hospital facilities or operations, and other hospitals or health care businesses,  
922 for the sharing, allocation, or utilization of personnel, instructional programs, support services and  
923 facilities, or medical, diagnostic, or laboratory facilities, equipment, services or procedures; for the  
924 formation of or participation in provider networks or managed care plans; or for the negotiation and  
925 execution of contracts with insurers or health care financing companies.

926 "Costs" means costs of construction, reconstruction, renovation, site work and acquisition of lands,  
927 structures, rights-of-way, franchises, easements and other property rights and interests; costs of  
928 demolition, removal or relocation of buildings or structures; costs of labor, materials, machinery and all  
929 other kinds of equipment; financing charges; costs of engineering and inspections; costs of financial,  
930 legal and accounting services; costs of plans, specifications, studies, surveys; estimates of costs and of  
931 revenues; feasibility studies and administrative expenses, including administrative expenses during the  
932 start-up of any project; costs of issuance of bonds, including printing, engraving, advertising, legal and  
933 other similar expenses; credit enhancement and liquidity facility fees; fees for interest rate caps, collars,  
934 swaps or other financial derivative products; interest on bonds in connection with a project prior to and  
935 during construction or acquisition thereof and for a period not exceeding one year thereafter; provisions  
936 for working capital to be used in connection with any project; redemption premiums, obligations  
937 purchased to provide for the payment of bonds being refunded and other costs necessary or incident to  
938 refunding of bonds; operating and maintenance reserve funds, debt reserve funds and other reserves for  
939 the payment of principal and interest on bonds; and all other expenses necessary, desirable or  
940 incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation,  
941 acquisition or financing of projects or other facilities or equipment appropriate for carrying out the  
942 purposes of this chapter and the placing of the same in operation; or the refunding of bonds.

943 "Director" means the director of the Medical College of Virginia Hospitals Authority.

944 "Hospital facilities" means all property or rights in property, real and personal, tangible and  
945 intangible, including all facilities suitable for providing hospital and health care services and including  
946 any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances,  
947 lands, rights in land, furnishings, landscaping, approaches, roadways and other related and supporting  
948 facilities, now or hereafter owned, leased, operated or used, in whole or in part, by Virginia  
949 Commonwealth University as part of, or in connection with, Medical College of Virginia Hospitals in  
950 the normal course of its operations as a teaching, research and medical treatment facility.

951 "Hospital obligations" means all debts or other obligations, contingent or certain, owing to any  
952 person or other entity on the transfer date, arising out of the operation of the Medical College of  
953 Virginia Hospitals as a medical treatment facility or arising out of the financing or refinancing of  
954 hospital facilities, and including all bonds and other debts for the purchase of goods and services,  
955 whether or not delivered, and obligations for the delivery of services, whether or not performed.

956 "Project" means any health care, research or educational facility or equipment necessary or  
957 convenient to or consistent with the purposes of the Authority, whether or not owned by the Authority,  
958 including, without limitation, hospitals; nursing homes; continuing care facilities; self-care facilities;  
959 wellness and health maintenance centers; medical office facilities; clinics; out-patient clinics; surgical  
960 centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices;  
961 facilities for the residence or care of the elderly, the handicapped, or the chronically ill; residential  
962 facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed,  
963 or infirm persons or the prevention of disease or maintenance of health; colleges, schools or divisions  
964 offering undergraduate or graduate programs for the health professions and sciences and such other  
965 branches of learning as may be appropriate, together with research, training, and teaching facilities; all  
966 related and supporting facilities and equipment necessary or desirable in connection therewith or  
967 incidental thereto; or equipment alone, including, without limitation, parking, kitchen, laundry,  
968 laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational  
969 facilities; power plants and equipment; storage space; mobile medical facilities; vehicles; air transport  
970 equipment and other equipment necessary or desirable for the transportation of medical equipment,  
971 medical personnel or patients; and all lands, buildings, improvements, approaches and appurtenances  
972 necessary or desirable in connection with or incidental to any project.

973 "Transfer date" means a date or dates agreed to by the Board of Visitors of Virginia Commonwealth  
974 University and the Authority for the transfer of employees to the Authority and for the transfer of  
975 hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital  
976 obligations by the Authority, which dates for the various transfers and the various assumptions may be  
977 different, but in no event shall any date be later than June 30, 1997.

978 "University" means Virginia Commonwealth University.

979 § 23-50.15:6. Board of Directors; appointment; offices; employees.

980 A. The Authority shall be governed by a Board of Directors consisting of sixteen members as  
981 follows: four members to be appointed by the Governor; three members to be appointed by the House of  
982 Delegates; two members to be appointed by the Senate of Virginia; five members of the Board of



Visitors of Virginia Commonwealth University, to be appointed by the Rector, all of whom shall also be members of the Board of Visitors of Virginia Commonwealth University at all times while serving on the Board; and the President of Virginia Commonwealth University and the Dean of the Virginia Commonwealth University School of Medicine, who shall serve as ex officio voting members during their respective terms of office.

Of the appointments to be made on and after July 1, 1996, two gubernatorial appointees shall be appointed for three-year terms, one for a two-year term, and one for a one-year term; one appointee each by the Speaker of the House of Delegates and the Senate Committee on Privileges and Elections shall be appointed for three-year terms, and one each for two-year terms; one appointee by the Speaker of the House shall be appointed by for a one-year term; and two Board of Visitors members shall be appointed for three-year terms, two for two-year terms, and one for a one-year term. Thereafter, all appointments shall be for terms of three years each, except appointments to fill unexpired vacancies which shall be made for the remainder of the unexpired terms.

No person shall be eligible to serve more than two consecutive full three-year terms as an appointed member, but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, or after one year following the expiration of a second full three-year term, two additional three-year terms may be served by a member if so appointed. The terms of members serving by virtue of their office shall expire upon termination of such office. All members shall continue to hold office until their successors have been appointed and have qualified.

All appointed members, other than those who are members of the Board of Visitors, shall have demonstrated experience or expertise in business, health-care management or legal affairs. Immediately after their appointments, members shall enter upon the performance of their duties. The Board members appointed from the Board of Visitors and the ex officio members shall not vote on matters that would require them to breach their fiduciary duties to the University or to the Authority.

B. All appointments, including the initial appointments to the Board and appointments to fill vacancies, are subject to confirmation by the affirmative vote of a majority of those voting in each house of the General Assembly if in session when such appointments are made and, if not in session, at its first regular session subsequent to such appointment. Any member whose nomination is subject to confirmation during a regular session of the General Assembly shall be deemed terminated when the General Assembly rejects the nomination or when it adjourns without confirming the nomination, whichever is earlier. No such termination shall affect the validity of any action taken by such member prior to such termination.

C. A Board member may be removed for malfeasance, misfeasance, incompetence or gross neglect of duty by the individual or entity that appointed him or, if such appointing individual no longer holds the office creating the right of appointment, by the current holder of that office.

D. The Board shall elect annually one of their number as chairman and another as vice-chairman. The Board shall also elect a secretary and treasurer and such assistant secretaries and assistant treasurers as the Board may authorize for terms determined by the Board, each of whom may or may not be a member of the Board. The same person may serve as both secretary and treasurer. The Board may also appoint an executive committee and other standing or special committees and prescribe their duties and powers, and any executive committee may exercise all such powers and duties of the Board under this chapter as the Board may delegate.

E. The Board shall employ a director to direct, manage and administer the daily operation of the Authority. The Board may provide for the appointment, employment and removal of officers, employees and agents of the Authority, including engineers, consultants, lawyers and accountants, upon such compensation and other terms as the Board deems appropriate.

F. The Board shall meet at least four times each year and may hold such special meetings as it deems appropriate. The Board may adopt, amend and repeal such rules, regulations, procedures and bylaws, not contrary to law or inconsistent with this chapter, as it deems expedient for its own governance and for the governance and management of the Authority. A majority of the Board shall constitute a quorum for meetings, and the Board may act by a majority of those present at any meeting.

G. Board members shall not be entitled to compensation, but shall be entitled to reimbursement for necessary and reasonable travel and other expenses incurred while engaged in the performance of their duties.

H. The provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.) shall apply to the members of the Board and the employees of the Authority.

§ 23-50.15:7. Powers generally.

The Authority shall have all the powers necessary or convenient to carry out the purposes and provisions of this chapter, including, without limitation, the following powers:

1. To sue and be sued in its own name.
2. To have and alter an official seal.

- 1044 3. To have perpetual duration and succession in its name.  
1045 4. To locate and maintain offices at such places as it may designate.  
1046 5. To make and execute contracts, guarantees or any other instruments and agreements necessary or  
1047 convenient for the exercise of its powers and functions including, without limitation, to make and  
1048 execute contracts with hospitals or health-care businesses to operate and manage any or all of the  
1049 hospital facilities or operations, and to incur liabilities and secure the obligations of any entity or  
1050 individual.
- 1051 6. To conduct or engage in any lawful business, activity, effort or project consistent with the  
1052 Authority's purposes or necessary or convenient to exercise its powers.
- 1053 7. To exercise, in addition to its other powers, all powers that are granted to corporations by the  
1054 provisions of Title 13.1 (§ 13.1-1 et seq.) or similar provisions of any successor law, except in those  
1055 cases where, by the express terms of the provisions thereof, the power is confined to corporations  
1056 created under such title, and that are not inconsistent with the purposes and intent of this chapter or the  
1057 limitations included in this chapter.
- 1058 8. To accept, hold and enjoy any gift, devise or bequest to the Authority or its predecessors, the  
1059 same to be held for the uses and purposes designated by the donor, if any, or if not so designated, for  
1060 the general purposes of the Authority, whether given directly or indirectly; and to accept, execute and  
1061 administer any trust or endowment fund in which it has or may have an interest under the terms of the  
1062 instrument creating the trust or endowment fund.
- 1063 9. To borrow money and issue bonds as provided in this chapter and to purchase such bonds.
- 1064 10. To seek financing from, incur or assume indebtedness to and enter into contractual commitments  
1065 with, the Virginia Public Building Authority and the Virginia College Building Authority, which  
1066 authorities are authorized to borrow money and make and issue negotiable notes, bonds and other  
1067 evidences of indebtedness to provide such financing relating to the hospital facilities or any project.
- 1068 11. To seek financing from, incur or assume indebtedness to, and enter into contractual commitments  
1069 with the Commonwealth of Virginia as otherwise provided by law relating to the hospital facilities or  
1070 any project.
- 1071 12. To procure such insurance, participate in such insurance plans and/or provide such  
1072 self-insurance as it deems necessary or convenient to carry out the purposes and provisions of the  
1073 chapter. The purchase of insurance, participation in an insurance plan, or the creation of a  
1074 self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign  
1075 immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled.
- 1076 13. To develop policies and procedures consistent with Article 2.1 (§11-62.1 et seq.) of Chapter 7 of  
1077 Title 11.
- 1078 14. To develop policies and procedures generally applicable to the procurement of goods, services  
1079 and construction, based upon competitive principles.
- 1080 § 23-50.15:8. Appointment, salary and powers of Director.
- 1081 A. The Authority shall be under the immediate supervision and direction of a Director. The Director  
1082 shall be appointed by and serve at the pleasure of the Board. The Director shall receive a salary as  
1083 determined by the Board.
- 1084 B. The Director shall devote his full time to the performance of his official duties and shall not be  
1085 engaged in any other profession or occupation.
- 1086 C. The Director shall supervise and administer the operation of the Authority in accordance with the  
1087 provisions of this chapter.
- 1088 § 23-50.15:9. Audit.
- 1089 The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the  
1090 accounts of the Authority. The Auditor of Public Accounts and the Board of the Authority shall jointly  
1091 select a certified public accounting firm to perform such audits as required by this section. The  
1092 Authority shall not be deemed to be a state or governmental agency, advisory agency, public body or  
1093 agency or instrumentality for purposes of Chapter 13 (§ 2.1-153 et seq.). The working papers and files  
1094 of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of  
1095 Chapter 21 (§ 2.1-340 et seq.) of Title 2.1. The Authority shall be subject to periodic external review  
1096 under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.).
- 1097 § 23-50.15:10. Operation of projects.
- 1098 A. The Authority may acquire; plan; design; construct; own; rent as landlord or tenant; operate;  
1099 control; remove; renovate; enlarge; equip and maintain, directly or through stock or nonstock  
1100 corporations or other entities, any project as defined in this chapter. Such projects may be owned or  
1101 operated by the Authority or other parties, or jointly by the Authority and other parties, and may be  
1102 operated within or without the Commonwealth, so long as their operation is necessary or desirable to  
1103 assist the Authority in carrying out its public purposes within the Commonwealth, and so long as any  
1104 private benefit resulting to any such other private parties from any such project is merely incidental to  
1105 the public benefit of such project.

*B. In the operation of hospitals and other health-care and related facilities, the Authority may make and enforce all rules and regulations necessary or desirable for such operation, including those relating to the conditions under which the privilege of practicing may be available therein, the admission and treatment of patients, procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such rules and regulations shall not discriminate on the basis of race, religion, sex or national origin.*

*§ 23-50.15:11. Cooperative agreements; purpose.*

*In appropriate circumstances, cooperative agreements are likely to foster improvements in the delivery, quality or cost effectiveness of health care; to improve access to needed services; to provide flexibility to design, foster and develop programs to meet specific health care needs; to promote and achieve efficiencies and economies of scale; and to prevent the inefficient duplication of services. It is therefore the intent of the General Assembly to encourage the development of such cooperative agreements under appropriate circumstances. To this end, this chapter shall regulate such cooperative agreements as have been approved by the Commissioner of Health and the conduct of parties under such agreements, and shall displace any competition that may otherwise exist in the absence of such regulation.*

*§ 23-50.15:12. Administrative procedure.*

*A. To obtain a certificate of approval for a cooperative agreement, the parties to the cooperative agreement shall file a completed application for a certificate with the Commissioner. The application shall include:*

*1. A copy of the agreement with an identification of the parties to the agreement and each party seeking immunity from the antitrust laws pursuant to this chapter;*

*2. A specific description of the nature and scope of the cooperation and joint activities contemplated by the agreement;*

*3. A succinct explanation of how the standard set forth in § 23-50.15:13 applies to the agreement; and*

*4. Any other material or information that the Commissioner may reasonably require that is relevant to the standard set forth in § 23-50.15:13.*

*B. The Commissioner shall approve or disapprove an application within thirty days after the date the completed application was filed. The Commissioner's decision shall be in writing and shall include specific findings and the basis therefor, as well as any reasonable and related conditions or restrictions imposed pursuant to § 23-50.15:13. The Commissioner shall serve copies of his decision on the applicants.*

*§ 23-50.15:13. Standard for approval of cooperative agreement.*

*The Commissioner shall issue a certificate of approval of a cooperative agreement pursuant to this chapter if the Commissioner determines that the applicants have been demonstrated by a preponderance of the evidence all of the following:*

*1. That such agreement is likely to result in one or more of the following benefits:*

*a. Improvement in the quality of health care provided to Virginia citizens;*

*b. The preservation or expansion of access to health care services; or*

*c. The promotion of affordable health care through gains in cost-efficiency, improvement in utilization, reduced duplication of resources, or technological advancements.*

*2. That benefits likely to result from the cooperative agreement substantially outweigh any disadvantages attributable to any reduction in competition likely to result from the cooperative agreement.*

*3. That any reduction in competition likely to result from the cooperative agreement is reasonably necessary to obtain the benefits identified as likely to result from the cooperative agreement.*

*§ 23-50.15:14. Reports.*

*A. The holder of a certificate of approval of a cooperative agreement shall submit a report to the Commissioner every two years on or before the anniversary date of the issuance of the certificate. The report shall provide the Commissioner with sufficient information to enable him to evaluate the impact of the agreement on the availability, cost effectiveness, quality, affordability and delivery of health care services; to determine whether such parties have complied with the terms of the agreement; to determine whether the benefits resulting from the agreement continue to outweigh the disadvantages caused by any reduction in competition resulting from the agreement; and to determine that any reduction in competition resulting from the agreement is necessary to obtain the resulting benefits.*

*B. The Commissioner shall review each biannual report. After consideration of all of the information in the biannual report and any further requested information, the Commissioner, within thirty days of receipt of the biannual report, shall make the evaluations, and determinations set forth in subsection A of this section and shall notify in writing the holder of the certificate of his decision regarding the continued validity of the certificate and the findings and reasons thereof.*

1167 C. The Commissioner may request such information and documents pertaining to the agreement and  
1168 of the operations under the agreement as the Commissioner shall determine to be reasonably necessary.  
1169 § 23-50.15:15. Revocation or modification of certificate of approval.

1170 A. At any time the Commissioner may revoke or modify approval of a cooperative agreement if he  
1171 determines by a preponderance of the evidence that:

1172 1. The parties have failed in a material respect to comply with the terms of the agreement as  
1173 approved by the Commissioner and have failed to the reasonable satisfaction of the Commissioner, after  
1174 written notice of the noncompliance, to cure their noncompliance; or

1175 2. The agreement no longer meets the standard for approval set forth in § 23-50.15:13 because of  
1176 materially changed circumstance.

1177 B. The Commissioner shall not revoke a certificate of approval pursuant to subdivision 2 of  
1178 subsection A of this section if it is reasonably possible for the parties to modify the agreement to  
1179 accommodate the effect of the changed circumstance.

1180 C. Any determination made by the Commissioner pursuant to subsection A of this section shall be  
1181 made only after an opportunity for a hearing has been provided and notice has been given to the  
1182 parties to the agreement.

1183 D. The revocation of approval of a cooperative agreement pursuant to subsection A of this section  
1184 shall be prospective in application.

1185 § 23-50.15:16 . Records.

1186 The Commissioner shall maintain on file all cooperative agreements which it has approved and  
1187 which remain in effect. All such records shall be subject to the provisions and protections of the  
1188 Freedom of Information Act (§ 2.1-340 et seq.) of Title 2.1 of this Code; however, proprietary or  
1189 confidential information submitted by the applicants shall not be subject to disclosure under the  
1190 Freedom of Information Act. Any party to a cooperative agreement which has been terminated by  
1191 agreement of the parties shall file a notice of the termination with the Commissioner within thirty days  
1192 after the termination.

1193 § 23-50.15:17. Judicial review.

1194 Any applicant or holder of a certificate is entitled to judicial review of a decision of the  
1195 Commissioner in denying an application, refusing to act on an application, conditioning or modifying a  
1196 certificate, or terminating a certificate, in accordance with the Administrative Process Act (§ 9-6.14:1 et  
1197 seq.).

1198 § 23-50.15:18. Immunity.

1199 A. Any party to a cooperative agreement which has been approved by the Commissioner pursuant to  
1200 this chapter shall be immune from any civil or criminal antitrust actions based upon the cooperative  
1201 agreement or arising from conduct or activity reasonably necessary and reasonably foreseeable to  
1202 implement such agreement or any decision or order issued by the Commissioner. Approved cooperative  
1203 agreements are lawful and shall not be violations of the federal or state antitrust laws.

1204 B. Any party to a cooperative agreement that has been submitted to the Commissioner pursuant to  
1205 this chapter shall be immune from any civil or criminal antitrust action based upon or arising from the  
1206 negotiation of or entering into the cooperative agreement.

1207 C. All persons who participate in planning, discussions or negotiations intended in good faith to  
1208 culminate in a cooperative agreement to be submitted to the Commissioner for approval pursuant to this  
1209 chapter shall be immune from any civil or criminal antitrust action based upon or arising from such  
1210 conduct.

1211 D. Submission of a cooperative agreement for approval pursuant to this chapter is voluntary, and the  
1212 failure of parties to a cooperative agreement to seek such approval shall not give rise to any legal  
1213 inference or presumption of noncompliance with the antitrust laws. Additionally, the failure to seek  
1214 approval for a cooperative agreement shall not be admissible in any civil or criminal antitrust action if  
1215 such action is based on the cooperative agreement or arises from conduct or activity reasonably  
1216 necessary and reasonably foreseeable to implement the cooperative agreement.

1217 E. Nothing in this chapter shall be construed to limit the application of any law governing the  
1218 licensure of health care providers. Any activities undertaken pursuant to a cooperative agreement shall  
1219 comply with applicable law.

1220 § 23-50.15:19. Police power; civil penalties.

1221 A. The Authority is empowered to adopt and enforce reasonable rules and regulations governing  
1222 access to, conduct in or on, and use of its property and facilities and surrounding streets, sidewalks and  
1223 other public areas, and governing other matters affecting the safety and security of Authority property  
1224 and of those using or occupying Authority property. Such rules and regulations shall have the force and  
1225 effect of law (i) after publication one time in full in a newspaper of general circulation in the city or  
1226 county where the affected property is located and (ii) when posted where the public using such property  
1227 may conveniently see them.

1228 B. The campus police department of Virginia Commonwealth University, established in accordance

with the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, may enforce on Authority property the laws of the Commonwealth and rules and regulations adopted pursuant to subsection A of this section. To the extent that such police services are not provided by the University, the Authority is authorized to establish a police department in accordance with the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, except that the employment of such personnel by the Authority shall not be subject to the Virginia Personnel Act (§ 2.1-110 et seq.).

§  
23-50.15:20. Acquisition and disposition of property; acceptance of grants and loans.

A. Except as to those hospital facilities or any parts thereof that are leased to the Authority by the University, the control and disposition of which shall be determined by such lease instruments, the Authority may:

1. Own, hold, improve, use and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate or interest therein, acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law or other means on such terms and conditions and in such manner as it may deem proper;

2. Sell, assign, lease, encumber, mortgage or otherwise dispose of any project or any other real or personal property, tangible or intangible, or any right, easement, estate or interest therein, or any deed of trust or mortgage lien interest owned by it, under its control or custody or in its possession. The Authority may release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; and

3. Do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.

B. The Authority may accept loans, grants, contributions or other assistance from the federal government, the Commonwealth, or any town, city and county or other political subdivision thereof, or from any other public or private source to carry out any of the purposes of this chapter. The Authority may enter into any agreement or contract regarding or relating to the acceptance, use or repayment of any such loan, grant, contribution or assistance and may enter into such other agreements with any such entity in furtherance of the purposes of this chapter.

Counties, cities and towns are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The local government making the grant or loan may restrict the use of such grants or loans to a specific project, within or without that locality.

§ 23-50.15:21. Eminent domain.

The Authority may exercise the power of eminent domain pursuant to the provisions of Title 25 (§ 25-46.1 et seq.) to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this chapter, upon its adoption of a resolution declaring that the acquisition of such property is in the public interest and necessary for public use and upon the approval of the Governor. The Authority may acquire property already devoted to a public use, provided that no property belonging to any city, town or county or to any government or to any religious or charitable corporation may be acquired without its consent.

§ 23-50.15:22. Fees, rentals and other charges.

The Authority may fix, revise from time to time, charge and collect rates, rentals, fees and other charges for the services or facilities furnished by or on behalf of the Authority, and establish regulations regarding any such service rendered or the use, occupancy or operation of any such facility. Such charges and regulations shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth except as otherwise provided by law for the providers of health care.

§ 23-50.15:23. Creation of entities; participation in joint ventures; provision of assistance by authority; investments.

A. Consistent with § 23-50.15:24, the Authority may create or assist in the creation of; may own in whole or in part or otherwise control; may participate in or with any entities, public or private; and may purchase; receive; subscribe for; own; hold; vote; use; employ; sell; mortgage; lend; pledge; or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or without the Commonwealth, and (ii) obligations of any person or corporation.

B. The Authority may participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers or other entities to facilitate any activities or programs consistent with the public purposes and intent of this chapter.

C. The Authority may create a non-profit entity or entities for the purpose of soliciting, accepting and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust, which entity or entities shall not engage in trust business; provided, however, that the Authority shall not be empowered to create a non-profit entity or entities that would in any way

1290 duplicate such activities by the University or its related foundations.

1291 D. In carrying out any activities authorized by this chapter, the Authority may provide appropriate  
1292 assistance, including making loans and providing time of employees, to corporations, partnerships,  
1293 associations, joint ventures or other entities, whether or not such corporations, partnerships,  
1294 associations, joint ventures or other entities are owned or controlled in whole or in part, directly or  
1295 indirectly, by the Authority.

1296 E. Notwithstanding any provision of law to the contrary, the Authority may invest its operating funds  
1297 in any obligations or securities that are considered legal investments for public funds in accordance  
1298 with Chapter 18 (§ 2.1-327 et seq.) of Title 2.1. The Board shall adopt written investment guidelines and  
1299 shall retain an independent investment advisory firm or consultant to review a minimum of every five  
1300 years the suitability of the Authority's investments and their consistency with the investment guidelines.

1301 § 23-50.15:24. Public purpose.

1302 The exercise of the powers granted by this chapter shall be in all respects for the benefit of the  
1303 inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, knowledge,  
1304 convenience and prosperity. No part of the assets or net earnings of the Authority shall inure to the  
1305 benefit of, or be distributable to, any private individual, except that reasonable compensation may be  
1306 paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits  
1307 may be conferred that are in conformity with said purposes, and no private individual shall be entitled  
1308 to share in the distribution of any of the corporate assets on dissolution of the Authority.

1309 § 23-50.15:25. Exemption from taxation.

1310 As set forth in § 23-50.15:4, the Authority will be performing an essential governmental function in  
1311 the exercise of the powers conferred upon it by this chapter. Accordingly, the Authority shall not be  
1312 required to pay any taxes or assessments upon any project or any property or upon any operations of  
1313 the Authority or the income therefrom, or any taxes or assessments upon any project or any property or  
1314 local obligation acquired or used by the Authority under the provisions of this chapter or upon the  
1315 income therefrom. The exemption hereby granted shall not extend to persons or entities conducting on  
1316 the Authority's property businesses for which payment of state or local taxes would otherwise be  
1317 required. Any bonds issued by the Authority under the provisions of this chapter, the transfer thereof  
1318 and the income therefrom, and all rents, fees, charges, gifts, grants, revenues, receipts and other moneys  
1319 received, pledged to pay or secure the payment of such notes or bonds, shall at all times be free from  
1320 taxation and assessment of every kind by the Commonwealth and by the local governments and other  
1321 political subdivisions of the Commonwealth.

1322 § 23-50.15:26. Assistance by the University; transfer of existing facilities.

1323 A. The University is hereby authorized to lease, convey or otherwise transfer to the Authority any or  
1324 all assets and liabilities appearing on the balance sheet of the Medical College of Virginia Hospitals  
1325 and any or all of the hospital facilities, except real estate which may be leased to the Authority for a  
1326 term not to exceed ninety-nine years, upon such terms as may be approved by the University.

1327 B. Any transfer of hospital facilities shall be conditioned upon the following:

1328 1. The existence of a binding agreement between the University and the Authority that requires the  
1329 Authority to assume, directly or indirectly, those hospital obligations directly related to the hospital  
1330 facilities, or any parts thereof, that are transferred, which in the case of a lease of hospital facilities  
1331 may take the form of rental, as provided in subsection C of this section, or a combination of assumption  
1332 and such rental;

1333 2. The existence of a binding agreement between the University and the Authority that provides that,  
1334 effective on the transfer date and thereafter, the Authority shall assume responsibility for and shall  
1335 defend, indemnify and hold harmless the University and its officers and directors with respect to:

1336 a. All liabilities and duties of the University pursuant to contracts, agreements and leases for  
1337 commodities, services and supplies used by the Medical College of Virginia Hospitals, including  
1338 property leases;

1339 b. All claims related to the employment relationship between employees of the Authority and the  
1340 University on and after the transfer date;

1341 c. All claims for breach of contract resulting from the Authority's action or failure to act on and  
1342 after the transfer date;

1343 d. All claims related to the Authority's errors and omissions, including, but not limited to, medical  
1344 malpractice, directors' and officers' liability, workers' compensation, automobile liability, and premises,  
1345 completed operations and products liability, resulting from the Authority's action or failure to act on  
1346 and after the transfer date; and

1347 3. The existence of a binding agreement between the University and the Authority by which the  
1348 Authority shall accept and agree to abide by provisions that ensure the continued support of the  
1349 education, research, patient care and public service missions of the Medical College of Virginia  
1350 Hospitals, specifically including, without limitation:

1351 a. A requirement that the Authority continue to provide emergency and inpatient indigent care

services on the Medical College of Virginia campus of the University in a location or locations in downtown Richmond; and

b. A requirement that the Authority continue to act as the primary teaching facility for the Medical College of Virginia School of Medicine and Health Sciences Center of the University.

C. Any lease of hospital facilities, or any parts thereof, from the University to the Authority may include a provision that requires the Authority to pay the University a rental payment for the hospital facilities, or any parts thereof, that are leased. For those hospital facilities for which rental is paid, the rental shall be an amount that may not be less than the greater of the following:

1. An amount equal to the debt service accruing during the term of the lease on all outstanding bonds issued for the purpose of financing the acquisition, construction or improvement of the hospital facilities, or any parts thereof, on which rental is paid; or

2. A nominal amount determined by the parties to be necessary to prevent the lease from being unenforceable because of a lack of consideration.

D. Any lease of hospital facilities, or any parts thereof, shall include a provision that requires the Authority to continue to support the education, research, patient care and public service missions of the Medical College of Virginia Hospitals, specifically including, without limitation:

1. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the Medical College of Virginia campus of the University in a location or locations in downtown Richmond; and

2. A requirement that the Authority continue to act as the primary teaching facility for the Medical College of Virginia School of Medicine and Health Sciences Center of the University.

E. All other agencies and officers of the Commonwealth are authorized and directed to take such actions as may be necessary or desirable in the judgment of the University to permit such conveyance and the full use and enjoyment of the hospital facilities, including, without limitation, the transfer of property of any type held in the name of the Commonwealth or some instrumentality or agency thereof but used by the University in the operation of the hospital facilities.

F. The Authority may pay to or on behalf of the University some or all of the costs of the hospital facilities. The University may apply some or all of such proceeds to the payment or defeasance of its obligations issued to finance the hospital facilities, and the Authority may issue its bonds to finance or refinance such payment to or on behalf of the University.

G. Funds held by or for the University or any predecessor or division thereof, specifically including, without limitation, funds held by the University Foundation or the Medical College of Virginia Foundation for the benefit of the Medical College of Virginia Hospitals or any predecessor thereof, for use in operating, maintaining or constructing hospital facilities, providing medical and health sciences education or conducting medical or related research may be transferred, in whole or in part, to the Authority if the University or any foundation determines that the transfer is consistent with the intended use of the funds. The University may direct in writing that all or part of the money or property representing its beneficial interest under a will, trust agreement or other donative instrument be distributed to the Authority if the University determines that such direction will further any of the original purposes of the will, trust agreement or other instrument. Such a direction shall not be considered a waiver, disclaimer, renunciation, assignment or disposition of the beneficial interest by the University. A fiduciary's distribution to the Authority pursuant to such a written direction from the University shall be deemed a distribution to the University for all purposes relating to the donative instrument, and the fiduciary shall have no liability for distributing any money or property to the Authority pursuant to such a direction. None of the foregoing shall deprive any court of its jurisdiction to determine whether such a distribution is appropriate, under its cy pres powers or otherwise.

§ 23-50.15:27. Capital projects.

A. All capital projects shall be approved by the Board. Within thirty days after approval of any capital project in excess of \$2.0 million, the Board shall notify the House Appropriations and Senate Finance Committees of the scope, cost, and construction schedule of the proposed capital project. The Board may undertake the project unless objections are raised by either Committee within thirty days of the notification. If objections are made, the Authority may not undertake the project until the objections are resolved.

B. No capital project that has been presented to the Committees without objection, no capital project for which objections were raised and resolved, and no capital project for which construction has commenced shall be materially increased in size or materially changed in scope without following the procedure of subsection A of this section.

3. Notwithstanding any laws or regulations to the contrary, the Authority shall not be subject to any further process or procedure that requires the submission, review or approval of any capital project; however, the Authority shall ensure that BOCA Code and fire safety inspections of any capital project are conducted and that such projects are inspected by the State Fire Marshall or his designee prior to



1413 certification for building occupancy.

1414 § 23-50.15:28. Leases of property.

1415 The Authority shall be exempt from the provisions of § 2.1-504.2 and from any rules, regulations and  
1416 guidelines of the Division of Engineering and Buildings in relation to leases of real property into which  
1417 it enters.

1418 § 23-50.15:29. Operation of hospital facilities.

1419 The Authority shall not operate any of the hospital facilities prior to execution of the lease or leases  
1420 and agreement or agreements required by § 23-50.15:26, and such other agreements as may be  
1421 necessary or convenient in the University's judgment to provide for the transfer of the operations of the  
1422 hospital facilities to the Authority, unless, and to the extent that, the University approves otherwise.

1423 § 23-50.15:30. Assignment of agreements.

1424 The University may assign, and the Authority may accept the rights, and assume the obligations  
1425 under, any contracts or other agreements of any type relating to the financing or the operating of the  
1426 hospital facilities. Upon evidence that such assignment and acceptance have been made, all agencies  
1427 and instrumentalities of the Commonwealth are directed to consent to such assignment and to accept the  
1428 substitution of the Authority for the University as a party to such agreements to the extent that the  
1429 University's obligations thereunder relate to ownership, operation or financing of the hospital facilities.  
1430 Indebtedness previously incurred by the Commonwealth, the Virginia Public Building Authority, the  
1431 Virginia College Building Authority and any other agencies and instrumentalities of the Commonwealth  
1432 to finance the hospital facilities may continue to remain outstanding after their transfer and the  
1433 assignment of the agreements relating thereto by the University to the Authority.

1434 § 23-50.15:31. Licenses and permits.

1435 The transfer of the hospital facilities from the University to the Authority shall not require a  
1436 certificate of public need pursuant to Article 1.1 of Chapter 4 (§ 32.1-102.1 et seq.) of Title 32. All  
1437 licenses, permits, certificates of public need or other authorizations of the Commonwealth or any agency  
1438 thereof or of any county, city or town held by the University in connection with the ownership or  
1439 operation of the hospital facilities shall be deemed to be transferred, without further action, to the  
1440 Authority as and to the extent the Authority undertakes the activity thereby permitted. All agencies and  
1441 officers of the Commonwealth and all agencies and officers of counties, cities and towns are directed to  
1442 confirm such transfer by the issuance of new or amended licenses, permits, certificates of public need or  
1443 other authorizations upon the request of the University and the Authority.

1444 § 23-50.15:32. Agent for University.

1445 If for any reason the Authority cannot replace the University as a party to any agreement in  
1446 connection with the financing, ownership or operation of the hospital facilities, the Authority and the  
1447 University may provide that the Authority shall act as agent for the University in carrying out its  
1448 obligations under such agreement and/or in receiving the benefits thereunder.

1449 § 23-50.15:33. Employees of the Authority.

1450 A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the  
1451 Authority shall be employed on such terms and conditions as established by the Authority. The Board of  
1452 Directors of the Authority shall develop and adopt policies and procedures that will afford its employees  
1453 grievance rights, ensure that employment decisions shall be based upon the merit and fitness of  
1454 applicants and shall prohibit discrimination because of race, religion, color, sex or national origin.

1455 B. The Authority shall issue a written notice to all persons whose employment will be transferred to  
1456 the Authority. The date upon which such written notice is issued shall be referred to herein as the  
1457 "Option Date." Each person whose employment will be transferred to the Authority may, by written  
1458 request made within 180 days of the Option Date, elect not to become employed by the Authority. Any  
1459 employee of the Medical College of Virginia Hospitals who: (i) elects not to become employed by the  
1460 Authority and who is not reemployed by any department, institution, board, commission or agency of the  
1461 Commonwealth; or (ii) is not offered the opportunity to transfer to employment by the Authority; or (iii)  
1462 is not offered a position with the Authority for which the employee is qualified or is offered a position  
1463 that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred  
1464 by the provisions of the Workforce Transition Act, Chapter 10.5 (§ 2.1-116.20 et seq.) of Title 2.1. Any  
1465 employee who accepts employment with the Authority shall not be considered to be involuntarily  
1466 separated from state employment and shall not be eligible for the severance benefits conferred by the  
1467 provisions of the Workforce Transition Act.

1468 C. Without limiting its power generally with respect to employees, the Authority may employ any  
1469 person employed by the University in the operation of the hospital facilities and may assume obligations  
1470 under any employment agreement for such person and the University may assign any such contract to  
1471 the Authority.

1472 D. The Authority and the University may also enter into agreements providing for the purchase of  
1473 services of employees of the University utilized in the operation of the hospital facilities by payment of  
1474 such amounts as may be agreed upon to cover all or part of the salaries and other costs of such



employees.

E. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 2 (§ 2.1-11.1 et seq.) of Title 2.1, shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred. Notwithstanding subdivision A 2 of § 2.1-20.1, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employee's health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees, residents and interns and (ii) enter into agreements with the Department of Personnel and Training providing for the coverage of its employees, interns and residents under the state employee's health insurance plan, provided that such agreement shall require the Authority to pay the costs of providing health insurance coverage under such plan.

F. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred. Alternatively, such employee may elect to become a member of the retirement program established by the Authority for the benefit of its employees pursuant to § 51.1-126.2. The following rules shall apply:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or other such authorized retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefit of its employees will be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any non-participating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For purposes hereof, the basic benefits shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, determined based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

§ 23-50.15:34. Appropriations of Commonwealth.

Appropriations heretofore made by the General Assembly for capital improvements, health care services or other items related to or supplied at the hospital facilities may be paid to the Authority by the University or, at the request of the University, by any officer or agency of the Commonwealth pursuant to customary procedures upon evidence that the Authority will use such appropriations for the intended purposes.

§ 23-50.15:35. Power to issue bonds.

The Authority may issue bonds from time to time for any of its purposes, including financing or refinancing all or any part of its programs or general operations, costs of any project, including the hospital facilities, whether or not owned by the Authority, or to refund bonds or other obligations issued therefor by or on behalf of the Authority, the University or otherwise, including bonds or obligations not then subject to redemption, and may guarantee, assume or otherwise agree to pay, in whole or in part, indebtedness issued by the University or any other party resulting in the acquisition or construction of facilities for the benefit of the Authority or the refinancing thereof. Notwithstanding Article 2 (§ 2.1-177 et seq.) of Chapter 14 of Title 2.1, bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision, and without any proceedings or the happening of conditions or things other than those proceedings, conditions or things that are specifically required by this chapter; provided, however, that each debt offering shall be submitted to the State Treasurer sufficiently prior to the sale of such

1536 offering to allow the State Treasurer to undertake a review for the sole purposes of determining (i)  
1537 whether the offering may constitute tax-supported debt of the Commonwealth and (ii) the potential  
1538 impact of the offering on the debt capacity of the Commonwealth. After such review, the State Treasurer  
1539 shall determine if the offering constitutes tax-supported debt of the Commonwealth and the potential  
1540 impact of the offering on the debt capacity of the Commonwealth. If the State Treasurer determines that  
1541 the debt offering may constitute tax-supported debt of the Commonwealth, or may have an adverse  
1542 impact on the debt capacity of the Commonwealth, then the debt offering shall be submitted to the  
1543 Treasury Board for review and approval of the terms and structure of the offering in a manner  
1544 consistent with § 2.1-179. The Authority may issue such types of bonds as it may determine, including,  
1545 without limitation, bonds payable as to principal and interest from any one or more of the following  
1546 sources: (i) its revenues generally; (ii) income and revenues derived from the operation, sale or lease of  
1547 a particular project or projects, whether or not they are financed or refinanced from the proceeds of  
1548 such bonds; (iii) funds realized from the enforcement of security interests or other liens or obligations  
1549 securing such bonds; (iv) proceeds from the sale of bonds; (v) payments under letters of credit, policies  
1550 of municipal bond insurance, guarantees or other credit enhancements; (vi) any reserve or sinking funds  
1551 created to secure such payment; (vii) accounts receivable of the Authority; or (viii) other available funds  
1552 of the Authority.

1553 Any bonds may be additionally guaranteed by, or secured by a pledge of, any grant, contribution or  
1554 appropriation from a participating political subdivision, the University, the Commonwealth or any  
1555 political subdivision, agency or instrumentality thereof, any federal agency or any unit, private  
1556 corporation, partnership, association or individual.

1557 § 23-50.15:36. Liability on bonds.

1558 No member of the Board of Directors or officer, employee or agent of the Authority or any person  
1559 executing bonds of the Authority shall be liable personally on the bonds by reason of their issuance or  
1560 execution. Bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision  
1561 thereof other than the Authority and shall so state on their face. Neither the Commonwealth nor any  
1562 political subdivision thereof other than the Authority shall be liable for payment of bonds of the  
1563 Authority, nor shall such bonds be payable out of any funds or properties of the Commonwealth or any  
1564 political subdivision thereof other than those of the Authority, except as permitted by § 23-50.15:35. The  
1565 bonds of the Authority shall not constitute an indebtedness within the meaning of any debt limitation or  
1566 restriction. Bonds of the Authority are declared to be issued for an essential public and governmental  
1567 purpose.

1568 § 23-50.15:37. Form of bonds.

1569 Bonds of the Authority shall be authorized by resolution setting forth the maximum principal amount  
1570 issuable and may be issued in one or more series, shall be dated, shall mature at such time or times not  
1571 exceeding forty years from their date and may be made redeemable or subject to tender before maturity,  
1572 at the option of the Authority, at such price or prices and under such terms and conditions as may be  
1573 fixed by the Authority or its agents prior to issuance. Bonds of the Authority shall bear interest payable  
1574 at such times and at such rates as may be determined by the Authority, or as may be determined in  
1575 such manner as the Authority or its agents may provide, including rates approved by officers of the  
1576 Authority under authorization of the Board, rates tied to indices, rates of other securities or other  
1577 standards and determinations by agents designated by the Authority under guidelines established by the  
1578 Authority.

1579 The Authority shall determine the form of its bonds and the manner of execution and shall fix the  
1580 denominations thereof and the place or places of payment of principal and interest, which may be at  
1581 any bank or trust company or securities depository within or without the Commonwealth. The bonds  
1582 may be issued in coupon or registered form, or both, and provision may be made for their registration  
1583 in whole or in part. Bonds issued in registered form may be issued under a system of book-entry for  
1584 recording the ownership and transfer of ownership of rights to receive payments thereon. If any officer  
1585 whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to  
1586 be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid  
1587 and sufficient for all purposes. The Authority may contract for the services of one or more banks, trust  
1588 companies, financial institutions or other entities or persons, within or outside the Commonwealth, for  
1589 the authentication, registration, transfer, exchange and payment of bonds, or may provide such services  
1590 itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such  
1591 price, as it may determine.

1592 Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under  
1593 the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the  
1594 laws of the Commonwealth.

1595 Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary  
1596 bonds, exchangeable for definitive bonds when such bonds shall have been executed and are available  
1597 for delivery. The Authority may also provide for the replacement of any mutilated, destroyed, stolen or

1598 lost bonds.

1599 § 23-50.15:38. Trust indentures and mortgages; security for the bonds.

1600 Any bond issued under this chapter may be issued pursuant to or secured by a trust indenture, deed  
1601 of trust or mortgage of any project or projects or any other property of the Authority, whether or not  
1602 financed, in whole or in part, from the proceeds of such bonds, by a trust or other agreement with a  
1603 corporate trustee, which may be any trust company or bank having the powers of a trust company  
1604 within or without the Commonwealth, or other agent for bondholders, or any combination thereof. Any  
1605 such trust indenture or other agreement, or the resolution providing for the issuance of bonds, may  
1606 pledge or assign fees, rents and other charges to be received and may contain provisions for protecting  
1607 and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in  
1608 violation of law. Such provisions may include covenants: (i) providing for the collection and application  
1609 of revenues and the repossession and sale by the Authority, or any trustees under any trust indenture or  
1610 agreement, of any project or other property upon default; (ii) setting forth duties of the Authority in  
1611 relation to the acquisition, construction, maintenance, operation and insurance of any project or other  
1612 property of the Authority and the amounts of fees, rents and other charges to be charged; (iii) providing  
1613 for the collection of such fees, rents and other charges, and the custody, safeguarding and application  
1614 of all moneys of the Authority; (iv) providing for the creation of sinking funds and the creation and  
1615 maintenance of reserves; and (v) setting forth conditions or limitations with respect to the incurrence of  
1616 indebtedness or the granting of mortgages or other liens. Such trust indenture, trust or other agreement  
1617 or resolution may set forth the rights and remedies of the bondholders and of the trustee or other agent  
1618 for bondholders and may restrict the individual right of action by bondholders.

1619 In addition, the Authority may grant mortgages, deeds of trust, security interests and other liens on  
1620 its real and personal property, including its accounts receivable, to secure bonds. All pledges of  
1621 revenues of the Authority for payment of bonds shall be valid and binding from the time when the  
1622 pledge is made, and the revenues pledged and thereafter received by the Authority shall be subject  
1623 immediately to the lien of such pledge without any physical delivery thereof or further act, and the lien  
1624 of any such pledge shall be valid and binding as against all parties having claims of any kind in tort,  
1625 contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. The  
1626 Authority may also provide for the recording or filing of any mortgage, deed of trust, security interest  
1627 or other lien, or any financing statement or other instrument, necessary or desirable to create, perfect  
1628 or evidence any lien created pursuant to this chapter.

1629 It shall be lawful for any bank or trust company within or without the Commonwealth to serve as  
1630 depository of the proceeds of bonds or of other revenues of the Authority and to furnish indemnifying  
1631 bonds or to pledge such securities as may be required by the Authority.

1632 All expenses incurred in carrying out the provisions of such trust indenture or agreement or  
1633 resolution or other agreements relating to any project, including those to which the Authority may not  
1634 be a party, may be treated as a part of the costs of a project.

1635 § 23-50.15:39. Remedies of obligees of Authority.

1636 Except to the extent that the rights herein given may be restricted by such trust indenture or trust or  
1637 other agreement, any holder of bonds or coupons issued under the provisions of this chapter and the  
1638 trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either  
1639 at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any  
1640 and all rights under the laws of the Commonwealth or granted by this chapter or under such trust  
1641 indenture, trust or other agreement or the resolution authorizing the issuance of such bonds, and may  
1642 enforce and compel the performance of all duties required by this chapter or by such trust indenture,  
1643 trust or other agreement or resolution to be performed by the Authority or by any officer or agent  
1644 thereof, including the fixing, charging and collecting of fees, rents and other charges.

1645 § 23-50.15:40. Bonds to be legal investments.

1646 Bonds issued by the Authority under the provisions of this chapter are hereby made securities in  
1647 which all public officers and public bodies of the Commonwealth and its political subdivisions, all  
1648 insurance companies, trust companies, banking associations, investment companies, executors,  
1649 administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in  
1650 their control or belonging to them. Such bonds are hereby made securities that may properly and  
1651 legally be deposited with and received by any state or municipal officer or any agency or political  
1652 subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now  
1653 or may hereafter be authorized by law.

1654 § 23-50.15:41. Existing bonds.

1655 The Authority may assume, or may agree to make payments in amounts sufficient for the University  
1656 to pay, some or all of the hospital obligations incurred under resolutions previously adopted by the  
1657 University with respect to the hospital facilities and may issue bonds to refund bonds issued under such  
1658 resolutions or to refinance such payment obligations. If the Authority has assumed all hospital

1659 obligations under any such bond resolution and commenced its operation of substantially all of the  
1660 hospital facilities financed or refinanced thereby, the University, the State Treasurer, the Virginia Public  
1661 Building Authority and the Virginia College Building Authority shall take such steps as are appropriate  
1662 to provide for the substitution of the Authority for the University under such resolution and to transfer  
1663 to the Authority any funds payable to the University under the terms of such resolution.

1664 § 23-50.15:42. Confidential and public information.

1665 A. The Authority shall be subject to the provisions of the Freedom of Information Act (§ 2.1-340 et  
1666 seq.), which shall include the exceptions set forth in subdivision 62 of subsection B of § 2.1-342 and  
1667 subdivision 24 of subsection A of § 2.1-344.

1668 B. For purposes of the Freedom of Information Act (§ 2.1-340 et seq.), meetings of the Board shall  
1669 not be considered meetings of the Board of Visitors of the University. Meetings of the Board may be  
1670 conducted through telephonic or video means as provided in § 2.1-343.1(C) through (F) or similar  
1671 provisions of any successor law.

1672 § 23-50.15:43. Chapter liberally construed.

1673 This chapter shall constitute full and complete authority, without regard to the provisions of any  
1674 other law, for the doing of the acts and things herein authorized and shall be liberally construed to  
1675 effect the purposes hereof. Insofar as the provisions of this chapter are inconsistent with the provisions  
1676 of any other law, general, specific or local, the provisions of this chapter shall be controlling.

1677 § 23-50.15:44. Exemption of Authority from personnel, workforce transition, and procurement  
1678 procedures.

1679 The provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1, Chapter 10.5 (§ 2.1-116.20 et seq.) of  
1680 Title 2.1, and Chapter 7 (§ 11-35 et seq.) of Title 11 shall not apply to the Authority in the exercise of  
1681 any power conferred under this chapter.

1682 § 23-50.15:45. Reversion to University.

1683 Upon dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall  
1684 revert to the University.

1685 § 23-232. Establishment authorized; employment of officers.

1686 A. The governing board of each public institution of higher learning named in § 23-14, hereafter  
1687 sometimes referred to in this chapter as "institution," is authorized to establish a campus police  
1688 department and to employ campus police officers and auxiliary forces upon appointment as provided in  
1689 §§ 23-233 and 23-233.1. Such employment shall be governed by the Virginia Personnel Act, as set forth  
1690 in Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.

1691 B. The Medical College of Virginia Hospitals Authority shall be authorized to employ police officers  
1692 and auxiliary forces as provided in this chapter and in § 23-50.15:19, except that the employment of  
1693 such officers and forces shall not be governed by the Virginia Personnel Act (§ 2.1-110 et seq.).

1694 § 32.1-85. Adoption.

1695 A formulary of another state or of any agency of the United States, a formulary in use at the  
1696 University of Virginia Hospital or the hospitals of Virginia Commonwealth University Medical College  
1697 of Virginia Hospitals Authority or any combination of such formularies may be adopted for use as the  
1698 Virginia Voluntary Formulary pending the adoption of an original Formulary. Not later than July 1,  
1699 1981, the Council shall commence to compile an original Formulary.

1700 § 51.1-126.1. Certain employees of teaching hospitals.

1701 A. Any teaching hospital affiliated with an institution of higher education, other than the Medical  
1702 College of Virginia Hospitals Authority, may establish a retirement plan covering in whole or in part its  
1703 employees who are health care providers, as determined by the Department of Personnel and Training  
1704 pursuant to § 2.1-116, and is authorized to make contributions for the benefit of its employees who elect  
1705 to participate in such plan or arrangement rather than in the retirement system established by this  
1706 chapter. Any such alternative retirement plan shall not become effective until July 1, 1991, or any time  
1707 thereafter, as determined by such teaching hospital. Any health care provider employed by such teaching  
1708 hospital on or after July 1, 1991, may make an irrevocable election to participate in either the retirement  
1709 plan established by this chapter or the plan provided by the teaching hospital, in accordance with  
1710 guidelines established by the Virginia Retirement System. The election herein provided shall, as to any  
1711 health care provider employed after the alternative retirement plan implementation date, be exercised not  
1712 later than thirty-one days from the time of entry upon the performance of his duties.

1713 B. No health care provider employed by a teaching hospital who is an active member of a plan  
1714 established under this section shall also be an active member of the retirement system or a beneficiary  
1715 other than a contingent annuitant.

1716 C. The contribution by the Commonwealth to any other retirement plan established on behalf of  
1717 health care providers as provided in subsection A shall be the contribution by the Commonwealth which  
1718 would be required if the health care provider were a member of the retirement system or eight percent  
1719 of creditable compensation, whichever is less.

1720 D. If the institution of higher education with which the teaching hospital is affiliated has adopted a

retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established under this section shall offer the same investment opportunities as are available to the participants of the plan established under § 51.1-126.

E. The Virginia Retirement System shall develop policies and procedures; as approved by the Secretaries of Administration and Education, for the administration of the retirement plan established under this section.

§ 51.1-126.2. *Employees of the Medical College of Virginia Hospitals Authority.*

A. The Medical College of Virginia Hospitals Authority, hereafter referred to as the Authority, may establish one or more retirement plans covering in whole or in part its employees, including employees who, prior to the effective date of any plan established pursuant to this section, had been participants in any plan established pursuant to § 51.1-126 or § 51.1-126.1. The Authority is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in any other retirement system established by this chapter. Any such alternative retirement plan shall become effective at such time as determined by the Authority. Any employee of the Authority may make an irrevocable election to participate in the retirement plan established by this chapter or any plan provided by the Authority, in accordance with guidelines established by the Authority. The election herein provided shall, as to any employee of the Authority employed following the effective date of any plan established pursuant to this section, be exercised not later than thirty-one days from the time of entry upon the performance of his duties.

B. No employee of the Authority who is an active member of a plan established under this section shall also be an active member of the retirement system established by this chapter or a beneficiary of such other plan other than a contingent annuitant.

C. The contribution by the Authority to any other retirement plan established on behalf of employees of the Authority as provided in subsection A shall be the contribution by the Commonwealth which would be required if the employee were a member of the retirement system established by this chapter or eight percent of creditable compensation, whichever is less.

D. If the institution of higher education with which the Authority is affiliated has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established under this section shall offer the same investment opportunities as are available to the participants of the plan established under § 51.1-126.

E. The Authority shall develop policies and procedures for the administration of any retirement plan established by the Authority under this section. A copy of such policies and procedures shall be filed with the Board of Trustees of the Virginia Retirement System.

F. Pursuant to § 23-50.15:33, employees of the Authority shall be eligible to continue their participation in the Virginia Retirement System or in an alternative retirement plan offered pursuant to this section.

2. That the provisions of the first enactment amending §§ 9-156, 9-166.2, 23-50.11, 23-232, 32.1-85, and 51.1-126.1 and adding § 51.1-126.2 shall become effective on the transfer date, as defined in § 23-50.15:5.

3. That any annual leave and sick leave balances of employees of the Medical College of Virginia Hospitals who accept employment with the Medical College of Virginia Hospitals Authority pursuant to subsection B of § 23-50.15:33 as of the date of commencement of employment with the Authority shall be transferred intact from the Medical College of Virginia Hospitals to the Authority.

4. That notwithstanding subsection E of § 23-50.15:23, all operating revenues of the Medical College of Virginia Hospitals Authority shall continue to be deposited in the State Treasury in the same manner as were operating revenues of the Medical College of Virginia Hospitals, and, until July 1, 1998, all interest on such moneys shall be credited to the general fund, and thereafter shall be credited to the Medical College of Virginia Hospitals Authority.