

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 32.1-138 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 30 of Title 54.1 a section numbered 54.1-3028.1, relating to health regulation.

[H 2228]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-138 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 4 of Chapter 30 of Title 54.1 a section numbered 54.1-3028.1 as follows:

§ 32.1-138. Enumeration; posting of policies; staff training; responsibilities devolving on guardians, etc.; exceptions; certification of compliance.

A. The governing body of a nursing home facility required to be licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of this chapter, through the administrator of such facility, shall cause to be promulgated policies and procedures to ensure that, at the minimum, each patient admitted to such facility:

1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during his stay, of his rights and of all rules and regulations governing patient conduct and responsibilities;

2. Is fully informed, prior to or at the time of admission and during his stay, of services available in the facility and of related charges, including any charges for services not covered under Titles XVIII or XIX of the United States Social Security Act or not covered by the facility's basic per diem rate;

3. *Is fully informed in summary form of the findings concerning the facility in federal Health Care Financing Administration surveys and investigations, if any;*

~~3.~~ 4. Is fully informed by a physician of his medical condition unless medically contraindicated as documented by a physician in his medical record and is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research;

4. 5. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients, or for nonpayment for his stay except as prohibited by Titles XVIII or XIX of the United States Social Security Act, and is given reasonable advance notice as provided in § 32.1-138.1 to ensure orderly transfer or discharge, and such actions are documented in his medical record;

5. 6. Is encouraged and assisted, throughout the period of his stay, to exercise his rights as a patient and as a citizen and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of his choice, free from restraint, interference, coercion, discrimination, or reprisal;

6. 7. May manage his personal financial affairs, or may have access to records of financial transactions made on his behalf at least once a month and is given at least a quarterly accounting of financial transactions made on his behalf should the facility accept his written delegation of this responsibility to the facility for any period of time in conformance with state law;

7. 8. Is free from mental and physical abuse and free from chemical and, except in emergencies, physical restraints except as authorized in writing by a physician for a specified and limited period of time or when necessary to protect the patient from injury to himself or to others;

8. 9. Is assured confidential treatment of his personal and medical records and may approve or refuse their release to any individual outside the facility, except in case of his transfer to another health care institution or as required by law or third-party payment contract;

9. 10. Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs;

~~10.~~ 11. Is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care;

~~11.~~ 12. May associate and communicate privately with persons of his choice and send and receive his personal mail unopened, unless medically contraindicated as documented by his physician in his medical record;

~~12.~~ 13. May meet with and participate in activities of social, religious and community groups at his discretion, unless medically contraindicated as documented by his physician in his medical record;

~~13.~~ 14. May retain and use his personal clothing and possessions as space permits unless to do so would infringe upon rights of other patients and unless medically contraindicated as documented by his

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physician in his medical record; and

14. 15. If married, is assured privacy for visits by his or her spouse and if both are inpatients in the facility, is permitted to share a room with such spouse unless medically contraindicated as documented by the attending physician in the medical record.

B. All established policies and procedures regarding the rights and responsibilities of patients shall be printed in at least twelve point type and posted conspicuously in a public place in all nursing home facilities required to be licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of this chapter. These policies and procedures shall include the name and telephone number of the complaint coordinator in the Division of Licensure and Certification of the Virginia Department of Health as well as the toll-free number for the Virginia Long-Term Care Ombudsman Program and any substate ombudsman program serving the area. Copies of such policies and procedures shall be given to patients upon admittance to the facility and made available to patients currently in residence, to any guardians, next of kin, or sponsoring agency or agencies, and to the public.

C. The provisions of this section shall not be construed to restrict any right which any patient in residence has under law.

D. Each facility shall provide appropriate staff training to implement each patient's rights included in subsection A hereof.

E. All rights and responsibilities specified in subsection A hereof and § 32.1-138.1 as they pertain to (i) a patient adjudicated incapacitated in accordance with state law, (ii) a patient who is found, by his physician, to be medically incapable of understanding these rights, or (iii) a patient who is unable to communicate with others shall devolve to such patient's guardian, next of kin, sponsoring agency or agencies, or representative payee, except when the facility itself is representative payee, selected pursuant to section 205(j) of Title II of the United States Social Security Act.

F. Nothing in this section shall be construed to prescribe, regulate, or control the remedial care and treatment or nursing service provided to any patient in a nursing institution to which the provisions of § 32.1-128 are applicable.

G. It shall be the responsibility of the Commissioner to insure that the provisions of this section and the provisions of § 32.1-138.1 are observed and implemented by nursing home facilities. Each nursing home facility to which this section and § 32.1-138.1 are applicable shall certify to the Commissioner that it is in compliance with the provisions of this section and the provisions of § 32.1-138.1 as a condition to the issuance or renewal of the license required by Article 1 (§ 32.1-123 et seq.) of this chapter.

§ 54.1-3028.1. Nurse aide education programs.

Nurse aide education programs designed to prepare nurse aides for certification shall be a minimum of 120 clock hours in length. The curriculum of such programs shall include, but not be limited to, communication and interpersonal skills, safety and emergency procedures, personal care skills, appropriate clinical care of the aged and disabled, skills for basic restorative services, clients' rights, legal aspects of practice as a certified nurse aide, occupational health and safety measures, culturally sensitive care, and appropriate management of conflict. The Board shall promulgate regulations to implement the provisions of this section.

2. That the Board of Nursing shall promulgate regulations to comply with the provisions of this act within 280 days of its enactment. In addition and notwithstanding the provisions of § 54.1-3028.1, the Board shall, however, continue to approve nurse aide programs that are in compliance with its nurse aide program regulations in effect on July 1, 1999, and to certify nurse aides who successfully complete such programs and who comply with other requirements of law or regulation, until the date on which the Board's regulations to implement this act become effective. Persons who are certified by the Board as nurse aides prior to the date on which the Board's regulations to implement this act become effective shall be deemed to satisfy the requirements of § 54.1-3028.1 for purposes of biennial renewal of their certification so long as such persons are in compliance with other requirements of law and regulation concerning continued employment or competence as a condition of renewal.