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HOUSE BILL NO. 1470

Offered January 24, 2000

A BILL to amend and reenact §§ 2.1-1.5, 32.1-325 and 38.2-4319, as they are currently effective and as they may become effective, and 9-6.25:1, 38.2-4214, 54.1-2901 and 54.1-3000 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 38.2-3408.1 and by adding in Chapter 30 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-3030 through 54.1-3035; and to repeal Article 4 (§§ 32.1-145, 32.1-146, and 32.1-147) of Chapter 5 of Title 32.1 of the Code of Virginia, relating to licensure of midwives.

Patron—Hamilton

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 32.1-325 and 38.2-4319, as they are currently effective and as they may become effective, and 9-6.25:1, 38.2-4214, 54.1-2901 and 54.1-3000 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 38.2-3408.1 and by adding in Chapter 30 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-3030 through 54.1-3035, as follows:

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

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.
 Virginia Agriculture Development Authority.
 Virginia College Building Authority.
 Virginia Economic Development Partnership.
 Virginia Housing Development Authority.
 Virginia Information Providers Network Authority.
 Virginia Innovative Technology Authority.
 Virginia Port Authority.
 Virginia Public Building Authority.
 Virginia Public School Authority.
 Virginia Resources Authority.

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 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.
 Board of Trustees, Virginia Outdoor Foundation.
 Board of Visitors, Christopher Newport University.

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- 60 Board of Visitors, George Mason University.
61 Board of Visitors, Gunston Hall Plantation.
62 Board of Visitors, James Madison University.
63 Board of Visitors, Longwood College.
64 Board of Visitors, Mary Washington College.
65 Board of Visitors, Norfolk State University.
66 Board of Visitors, Old Dominion University.
67 Board of Visitors, Radford University.
68 Board of Visitors, The College of William and Mary in Virginia.
69 Board of Visitors to Mount Vernon.
70 Board of Visitors, University of Virginia.
71 Board of Visitors, Virginia Commonwealth University.
72 Board of Visitors, Virginia Military Institute.
73 Board of Visitors, Virginia Polytechnic Institute and State University.
74 Board of Visitors, Virginia State University.
75 Commonwealth Health Research Board.
76 Governing Board, Virginia College Building Authority.
77 Governing Board, Virginia Public School Authority.
78 Library Board, The Library of Virginia.
79 Motor Vehicle Dealer Board.
80 State Board for Community Colleges, Virginia Community College System.
81 Virginia-Israel Advisory Board.
82 (Effective until July 1, 2002) Wireless E-911 Service Board.
83 Commissions
84 Advisory Commission on the Virginia Schools for the Deaf and the Blind.
85 Alexandria Historical Restoration and Preservation Commission.
86 Charitable Gaming Commission.
87 Chesapeake Bay Bridge and Tunnel Commission.
88 Hampton Roads Sanitation District Commission.
89 Tobacco Indemnification and Community Revitalization Commission.
90 Councils
91 *Advisory Council on Midwifery.*
92 Districts
93 Chesapeake Bay Bridge and Tunnel District.
94 Hampton Roads Sanitation District.
95 Educational Institutions
96 Christopher Newport University.
97 Frontier Culture Museum of Virginia.
98 George Mason University.
99 James Madison University.
100 Jamestown-Yorktown Foundation.
101 Longwood College.
102 Mary Washington College.
103 Miller School of Albemarle.
104 Norfolk State University.
105 Old Dominion University.
106 Radford University.
107 The College of William and Mary in Virginia.
108 The Library of Virginia.
109 The Science Museum of Virginia.
110 University of Virginia.
111 Virginia Commonwealth University.
112 Virginia Community College System.
113 Virginia Military Institute.
114 Virginia Museum of Fine Arts.
115 Virginia Polytechnic Institute and State University.
116 Virginia State University.
117 Foundations
118 Chippokes Plantation Farm Foundation.
119 Rural Virginia Development Foundation.
120 Virginia Arts Foundation.
121 Virginia Land Conservation Foundation.

- 122 Virginia Historic Preservation Foundation.
 123 Virginia Outdoor Foundation.
 124 Virginia Tobacco Settlement Foundation.
 125 Museum
 126 Virginia Museum of Natural History.
 127 Partnership
 128 A. L. Philpott Manufacturing Extension Partnership.
 129 Plantation
 130 Gunston Hall Plantation.
 131 § 2.1-1.5. (Delayed effective date) Entities not subject to standard nomenclature.
 132 The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics
 133 or the enabling legislation of the entities:
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 198 Chesapeake Bay Bridge and Tunnel Commission.
 199 Hampton Roads Sanitation District Commission.
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 201 *Advisory Council on Midwifery.*
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 231 Virginia Conservation and Recreation Foundation.
 232 Virginia Outdoor Foundation.
 233 Museum
 234 Virginia Museum of Natural History.
 235 Partnership
 236 A. L. Philpott Manufacturing Extension Partnership.
 237 Plantation
 238 Gunston Hall Plantation.
 239 § 9-6.25:1. Advisory boards, commissions and councils.
 240 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
 241 following advisory boards, commissions and councils within the executive branch:
 242 Advisory Board for the Department for the Deaf and Hard-of-Hearing
 243 Advisory Board on Athletic Training
 244 Advisory Board on Child Abuse and Neglect

245	Advisory Board on Medicare and Medicaid
246	Advisory Board of Occupational Therapy
247	Advisory Board on Physical Therapy to the Board of Medicine
248	Advisory Board on Rehabilitation Providers
249	Advisory Board on Respiratory Care to the Board of Medicine
250	Advisory Board on Teacher Education and Licensure
251	Advisory Commission on the Virginia Schools for the Deaf and the Blind
252	<i>Advisory Council on Midwifery</i>
253	Advisory Council on Revenue Estimates
254	Advisory Council on the Virginia Business-Education Partnership Program
255	Appomattox State Scenic River Advisory Board
256	Aquaculture Advisory Board
257	Art and Architectural Review Board
258	Board for the Visually Handicapped, Virginia
259	Board of Directors, Virginia Truck and Ornamentals Research Station
260	Board of Forestry
261	Board of Military Affairs
262	Board of Rehabilitative Services
263	Board of Transportation Safety
264	Board of Trustees of the Family and Children's Trust Fund
265	Board of Visitors, Gunston Hall Plantation
266	Board on Veterans' Affairs
267	Catoctin Creek State Scenic River Advisory Board
268	Cave Board
269	Charity Food Assistance Advisory Board
270	Chickahominy State Scenic River Advisory Board
271	Chief Information Officer Advisory Board
272	Clinch Scenic River Advisory Board
273	Coal Surface Mining Reclamation Fund Advisory Board
274	Coastal Land Management Advisory Council, Virginia
275	Commonwealth Competition Council
276	Commonwealth Council on Aging
277	Council on Indians
278	Council on the Status of Women
279	Debt Capacity Advisory Committee
280	Emergency Medical Services Advisory Board
281	Falls of the James Committee
282	Goose Creek Scenic River Advisory Board
283	Governor's Mined Land Reclamation Advisory Committee
284	Hemophilia Advisory Board
285	Human Services Information and Referral Advisory Council
286	Interagency Coordinating Council on Housing for the Disabled
287	Interdepartmental Board of the State Department of Minority Business Enterprise
288	Litter Control and Recycling Fund Advisory Board
289	Local Advisory Board to the Blue Ridge Community College
290	Local Advisory Board to the Central Virginia Community College
291	Local Advisory Board to the Dabney S. Lancaster Community College
292	Local Advisory Board to the Danville Community College
293	Local Advisory Board to the Eastern Shore Community College
294	Local Advisory Board to the Germanna Community College
295	Local Advisory Board to the J. Sargeant Reynolds Community College
296	Local Advisory Board to the John Tyler Community College
297	Local Advisory Board to the Lord Fairfax Community College
298	Local Advisory Board to the Mountain Empire Community College
299	Local Advisory Board to the New River Community College
300	Local Advisory Board to the Northern Virginia Community College
301	Local Advisory Board to the Patrick Henry Community College
302	Local Advisory Board to the Paul D. Camp Community College
303	Local Advisory Board to the Piedmont Virginia Community College
304	Local Advisory Board to the Rappahannock Community College
305	Local Advisory Board to the Southside Virginia Community College

- 306 Local Advisory Board to the Southwest Virginia Community College
- 307 Local Advisory Board to the Thomas Nelson Community College
- 308 Local Advisory Board to the Tidewater Community College
- 309 Local Advisory Board to the Virginia Highlands Community College
- 310 Local Advisory Board to the Virginia Western Community College
- 311 Local Advisory Board to the Wytheville Community College
- 312 Maternal and Child Health Council
- 313 Medical Advisory Board, Department of Motor Vehicles
- 314 Migrant and Seasonal Farmworkers Board
- 315 North Meherrin State Scenic River Advisory Board
- 316 Nottoway State Scenic River Advisory Board
- 317 Personnel Advisory Board
- 318 Plant Pollination Advisory Board
- 319 Private College Advisory Board
- 320 Private Security Services Advisory Board
- 321 Psychiatric Advisory Board
- 322 Public Guardian and Conservator Advisory Board
- 323 Radiation Advisory Board
- 324 Rappahannock Scenic River Advisory Board
- 325 Recreational Fishing Advisory Board, Virginia
- 326 Reforestation Board
- 327 Rockfish State Scenic River Advisory Board
- 328 Shenandoah State Scenic River Advisory Board
- 329 Small Business Advisory Board
- 330 Small Business Environmental Compliance Advisory Board
- 331 St. Mary's Scenic River Advisory Committee
- 332 State Advisory Board on Air Pollution
- 333 State Building Code Technical Review Board
- 334 State Health Benefits Advisory Council
- 335 State Land Evaluation Advisory Council
- 336 State Networking Users Advisory Board
- 337 State Public Records Advisory Council
- 338 Statewide Independent Living Council
- 339 Statewide Rehabilitation Advisory Council
- 340 Statewide Rehabilitation Advisory Council for the Blind
- 341 Staunton Scenic River Advisory Committee
- 342 Substance Abuse Services Council
- 343 ~~Telecommunications Relay Service Advisory Board~~
- 344 Virginia-Israel Advisory Board
- 345 Virginia Advisory Commission on Intergovernmental Relations
- 346 Virginia Advisory Council for Adult Education and Literacy
- 347 Virginia Coal Mine Safety Board
- 348 Virginia Coal Research and Development Advisory Board
- 349 Virginia Commission for the Arts
- 350 Virginia Correctional Enterprises Advisory Board
- 351 Virginia Council on Coordinating Prevention
- 352 Virginia Equal Employment Opportunity Council
- 353 Virginia Geographic Information Network Advisory Board
- 354 Virginia Interagency Coordinating Council
- 355 Virginia Military Advisory Council
- 356 Virginia Public Buildings Board
- 357 Virginia Recycling Markets Development Council
- 358 Virginia Transplant Council
- 359 Virginia Veterans Cemetery Board
- 360 Virginia Water Resources Research Center, Statewide Advisory Board
- 361 Virginia Winegrowers Advisory Board.
- 362 § 32.1-325. Board to submit plan for medical assistance services to Secretary of Health and Human
- 363 Services pursuant to federal law; administration of plan; contracts with health care providers.
- 364 A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to
- 365 time and submit to the Secretary of the United States Department of Health and Human Services a state
- 366 plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and
- 367 any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of twenty-one, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of twenty-one, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of twenty-one days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of twenty-one who have been diagnosed with lymphoma or breast cancer and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

8. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance;

9. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

10. A provision for payment of medical assistance for annual pap smears;

11. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

12. A provision for payment of medical assistance which provides for payment for forty-eight hours of inpatient treatment for a patient following a radical or modified radical mastectomy and twenty-four hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

13. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician and in the durable medical equipment provider's possession within sixty days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

14. A provision for payment of medical assistance to (i) persons age fifty and over and (ii) persons

age forty and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a twelve-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

15. A provision for payment of medical assistance 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, and one such mammogram annually to persons age fifty and over. The term "mammogram" means 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; and

16. A provision, when in compliance with federal law and regulation and approved by the Health Care Financing Administration, for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 9-6.14:7.1, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq., "Enforcement of Compliance for Long-Term Care Facilities with Deficiencies."

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1-1:1 of Title 9 the Administrative Process Act. However, the Board shall, pursuant to the requirements of § 9-6.14:4.1, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments which are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and to receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and to enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract with any provider which has been convicted of a felony.

4. Refuse to enter into or renew an agreement or contract with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of a felony.

E. In any case in which a Medicaid agreement or contract is denied to a provider on the basis of his interest in a convicted professional or other corporation, the Director shall, upon request, conduct a hearing in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) regarding the provider's participation in the conduct resulting in the conviction.

The Director's decision upon reconsideration shall be consistent with federal and state laws. The Director may consider the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients.

F. When the services provided for by such plan are services which a clinical psychologist or a clinical social worker or licensed professional counselor or clinical nurse specialist *or midwife* is licensed to render in Virginia, the Director shall contract with any duly licensed clinical psychologist or licensed clinical social worker or licensed professional counselor or licensed clinical nurse specialist *or licensed midwife* who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of eighteen years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of twenty-one who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subsection I of § 11-45, the provisions of the Virginia Public Procurement Act (§ 11-35 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

§ 32.1-325. (Delayed effective date) Board to submit plan for medical assistance services to Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time and submit to the Secretary of the United States Department of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of twenty-one, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the

552 budget methodology for Aid to Families with Dependent Children, a home means the house and lot used
553 as the principal residence and all contiguous property. For all other persons, a home shall mean the
554 house and lot used as the principal residence, as well as all contiguous property, as long as the value of
555 the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the
556 definition of home as provided here is more restrictive than that provided in the state plan for medical
557 assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and
558 lot used as the principal residence and all contiguous property essential to the operation of the home
559 regardless of value;

560 4. A provision for payment of medical assistance on behalf of individuals up to the age of
561 twenty-one, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of
562 twenty-one days per admission;

563 5. A provision for deducting from an institutionalized recipient's income an amount for the
564 maintenance of the individual's spouse at home;

565 6. A provision for payment of medical assistance on behalf of pregnant women which provides for
566 payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most
567 current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American
568 Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards
569 for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and
570 Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the
571 children which are within the time periods recommended by the attending physicians in accordance with
572 and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines
573 or Standards shall include any changes thereto within six months of the publication of such Guidelines
574 or Standards or any official amendment thereto;

575 7. A provision for the payment for family planning services on behalf of women who were
576 Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such
577 family planning services shall begin with delivery and continue for a period of twenty-four months, if
578 the woman continues to meet the financial eligibility requirements for a pregnant woman under
579 Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion
580 services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

581 8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow
582 transplants on behalf of individuals over the age of twenty-one who have been diagnosed with
583 lymphoma or breast cancer and have been determined by the treating health care provider to have a
584 performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant.
585 Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

586 9. A provision identifying entities approved by the Board to receive applications and to determine
587 eligibility for medical assistance;

588 10. A provision for breast reconstructive surgery following the medically necessary removal of a
589 breast for any medical reason. Breast reductions shall be covered, if prior authorization has been
590 obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

591 11. A provision for payment of medical assistance for annual pap smears;

592 12. A provision for payment of medical assistance services for prostheses following the medically
593 necessary complete or partial removal of a breast for any medical reason;

594 13. A provision for payment of medical assistance which provides for payment for forty-eight hours
595 of inpatient treatment for a patient following a radical or modified radical mastectomy and twenty-four
596 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection
597 for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as
598 requiring the provision of inpatient coverage where the attending physician in consultation with the
599 patient determines that a shorter period of hospital stay is appropriate;

600 14. A requirement that certificates of medical necessity for durable medical equipment and any
601 supporting verifiable documentation shall be signed, dated, and returned by the physician and in the
602 durable medical equipment provider's possession within sixty days from the time the ordered durable
603 medical equipment and supplies are first furnished by the durable medical equipment provider;

604 15. A provision for payment of medical assistance to (i) persons age fifty and over and (ii) persons
605 age forty and over who are at high risk for prostate cancer, according to the most recent published
606 guidelines of the American Cancer Society, for one PSA test in a twelve-month period and digital rectal
607 examinations, all in accordance with American Cancer Society guidelines. For the purpose of this
608 subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate
609 specific antigen;

610 16. A provision for payment of medical assistance for low-dose screening mammograms for
611 determining the presence of occult breast cancer. Such coverage shall make available one screening
612 mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons
613 age forty through forty-nine, and one such mammogram annually to persons age fifty and over. The

term "mammogram" means 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; and

17. A provision, when in compliance with federal law and regulation and approved by the Health Care Financing Administration, for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions.

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 9-6.14:7.1, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities with Deficiencies."

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1-1:1 of Title 9 the Administrative Process Act. However, the Board shall, pursuant to the requirements of § 9-6.14:4.1, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments which are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract with any provider which has been convicted of a felony.

4. Refuse to enter into or renew an agreement or contract with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of a felony.

E. In any case in which a Medicaid agreement or contract is denied to a provider on the basis of his interest in a convicted professional or other corporation, the Director shall, upon request, conduct a hearing in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) regarding the provider's participation in the conduct resulting in the conviction.

The Director's decision upon reconsideration shall be consistent with federal and state laws. The Director may consider the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients.

F. When the services provided for by such plan are services which a clinical psychologist or a

675 clinical social worker or licensed professional counselor or clinical nurse specialist *or midwife* is licensed
676 to render in Virginia, the Director shall contract with any duly licensed clinical psychologist or licensed
677 clinical social worker or licensed professional counselor or licensed clinical nurse specialist *or licensed*
678 *midwife* who makes application to be a provider of such services, and thereafter shall pay for covered
679 services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed
680 clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed
681 clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials
682 required for licensure.

683 G. The Board shall prepare and submit to the Secretary of the United States Department of Health
684 and Human Services such amendments to the state plan for medical assistance as may be permitted by
685 federal law to establish a program of family assistance whereby children over the age of eighteen years
686 shall make reasonable contributions, as determined by regulations of the Board, toward the cost of
687 providing medical assistance under the plan to their parents.

688 H. The Department of Medical Assistance Services shall:

689 1. Include in its provider networks and all of its health maintenance organization contracts a
690 provision for the payment of medical assistance on behalf of individuals up to the age of twenty-one
691 who have special needs and who are Medicaid eligible, including individuals who have been victims of
692 child abuse and neglect, for medically necessary assessment and treatment services, when such services
693 are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and
694 neglect, or a provider with comparable expertise, as determined by the Director.

695 2. Amend the Medallion II waiver and its implementing regulations to develop and implement an
696 exception, with procedural requirements, to mandatory enrollment for certain children between birth and
697 age three certified by the Department of Mental Health, Mental Retardation and Substance Abuse
698 Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20
699 U.S.C. § 1471 et seq.).

700 I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible
701 recipients with special needs. The Board shall promulgate regulations regarding these special needs
702 patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special
703 needs as defined by the Board.

704 J. Except as provided in subsection I of § 11-45, the provisions of the Virginia Public Procurement
705 Act (§ 11-35 et seq.) shall not apply to the activities of the Director authorized by subsection I of this
706 section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

707 § 38.2-3408.1. *Policy providing for reimbursement for services that may be performed by certain*
708 *practitioners other than physicians.*

709 *If an accident and sickness insurance policy provides reimbursement for any service that may be*
710 *legally performed by a person licensed in this Commonwealth as a licensed midwife, reimbursement*
711 *under the policy shall not be denied because the service is rendered by the licensed practitioner.*

712 § 38.2-4214. Application of certain provisions of law.

713 No provision of this title except this chapter and, insofar as they are not inconsistent with this
714 chapter, §§ 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230,
715 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through
716 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017,
717 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2
718 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1317 through 38.2-1328, 38.2-1334,
719 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401,
720 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through
721 38.2-3407.16, 38.2-3408.1, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3437,
722 38.2-3501, 38.2-3502, 38.2-3514.1, 38.2-3514.2, 38.2-3516 through 38.2-3520 as they apply to Medicare
723 supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3542,
724 38.2-3543.2, 38.2-3600 through 38.2-3607, Chapter 53 (§ 38.2-5300 et seq.), Chapter 58 (§ 38.2-5800 et
725 seq.) and Chapter 59 (§ 38.2-5900 et seq.) of this title shall apply to the operation of a plan.

726 § 38.2-4319. (Effective January 1, 2000 until July 1, 2004) Statutory construction and relationship to
727 other laws.

728 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
729 chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225,
730 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500
731 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1057, 38.2-1306.2
732 through 38.2-1309, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1
733 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836,
734 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through
735 38.2-3407.16, 38.2-3408.1, 38.2-3411.2, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.11,
736 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, §§ 38.2-3522.1

through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 59 (§ 38.2-5900 et seq.) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance organization.

B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

C. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

D. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

§ 38.2-4319. (Effective until January 1, 2000 and after July 1, 2004) Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1057, 38.2-1306.2 through 38.2-1309, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.16, 38.2-3408.1, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.11, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 59 (§ 38.2-5900 et seq.) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance organization.

B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

C. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

D. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

§ 54.1-2901. Exceptions and exemptions generally.

The provisions of this chapter shall not prevent or prohibit:

1. Any person entitled to practice his profession under any prior law on June 24, 1944, from continuing such practice within the scope of the definition of his particular school of practice;

2. Any person licensed to practice naturopathy prior to June 30, 1980, from continuing such practice in accordance with regulations promulgated by the Board;

3. Any licensed nurse practitioner from rendering care under the supervision of a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing;

4. Any registered professional nurse, ~~registered~~ *licensed* midwife, licensed nurse practitioner, graduate laboratory technician or other technical personnel who have been properly trained from rendering care or services within the scope of their usual professional activities which shall include the taking of blood, the giving of intravenous infusions and intravenous injections, and the insertion of tubes when performed under the orders of a person licensed to practice medicine;

5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his usual professional activities;

6. Any practitioner licensed or certified by the Board from delegating to personnel in his personal employ and supervised by him, such activities or functions as are nondiscretionary and do not require

798 the exercise of professional judgment for their performance and which are usually or customarily
799 delegated to such persons by practitioners of the healing arts, if such activities or functions are
800 authorized by and performed for such practitioners of the healing arts and responsibility for such
801 activities or functions is assumed by such practitioners of the healing arts;

802 7. The rendering of medical advice or information through telecommunications from a physician
803 licensed to practice medicine in Virginia or an adjoining state to emergency medical personnel acting in
804 an emergency situation;

805 8. The domestic administration of family remedies;

806 9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in
807 public or private health clubs and spas;

808 10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists
809 or druggists;

810 11. The advertising or sale of commercial appliances or remedies;

811 12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or
812 appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant
813 bracer or prosthetist for the purpose of having a three-dimensional record of the deformity, when
814 such bracer or prosthetist has received a prescription from a licensed physician directing the fitting
815 of such casts and such activities are conducted in conformity with the laws of Virginia;

816 13. Any person from the rendering of first aid or medical assistance in an emergency in the absence
817 of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

818 14. The practice of the religious tenets of any church in the ministration to the sick and suffering by
819 mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for
820 compensation;

821 15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally
822 licensed practitioners in this Commonwealth;

823 16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable
824 regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia
825 temporarily and such practitioner has been issued a temporary license or certification by the Board from
826 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
827 camp or in conjunction with patients who are participating in recreational activities, (ii) while
828 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
829 site any health care services within the limits of his license, voluntarily and without compensation, to
830 any patient of any clinic which is organized in whole or in part for the delivery of health care services
831 without charge as provided in § 54.1-106;

832 17. The performance of the duties of any commissioned or contract medical officer, physical
833 therapist, or podiatrist in active service in the army, navy, coast guard, marine corps, air force, or public
834 health service of the United States while such individual is so commissioned or serving;

835 18. Any masseur, who publicly represents himself as such, from performing services within the scope
836 of his usual professional activities and in conformance with state law;

837 19. Any person from performing services in the lawful conduct of his particular profession or
838 business under state law;

839 20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

840 21. Qualified emergency medical services personnel, when acting within the scope of their
841 certification, and licensed health care practitioners, when acting within their scope of practice, from
842 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of
843 Health regulations, or licensed health care practitioners from following any other written order of a
844 physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

845 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
846 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
847 § 54.1-106;

848 23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture
849 detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent
850 certifying body, from administering auricular acupuncture treatment under the appropriate supervision of
851 a licensed physician acupuncturist or licensed acupuncturist;

852 24. Any employee of any adult care residence who is certified in cardiopulmonary resuscitation
853 (CPR) acting in compliance with the patient's individualized service plan and with the written order of
854 the attending physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

855 25. Any person working as a health assistant under the direction of a licensed medical or osteopathic
856 doctor within the Department of Corrections, the Department of Juvenile Justice or local correctional
857 facilities; or

858 26. Any employee of a school board, authorized by a prescriber and trained in the administration of
859 insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents

as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia; or

27. Any person who is licensed pursuant to § 54.1-3030 from practicing licensed midwifery.

§ 54.1-3000. Definitions.

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

"Board" means the Board of Nursing.

"Certified nurse aide" means a person who meets the qualifications specified in this article and who is currently certified by the Board.

"Clinical nurse specialist" means a person who is registered by the Board in addition to holding a license under the provisions of this chapter to practice professional nursing as defined in this section. Such a person shall be recognized as being able to provide advanced services according to the specialized training received from a program approved by the Board, but shall not be entitled to perform any act that is not within the scope of practice of professional nursing.

"Certified massage therapist" means a person who meets the qualifications specified in this chapter and who is currently certified by the Board.

"Massage therapy" means the treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body. The terms "massage therapy" and "therapeutic massage" do not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

"Midwife" means a person who is licensed under the provisions of this chapter to provide direct-entry midwifery services as defined in this section.

"Midwifery" means the assessment and care of a pregnant woman and her newborn during pregnancy, labor, birth, and the postpartum period outside of a hospital.

"Practical nurse" or "licensed practical nurse" means a person who is licensed under the provisions of this chapter to practice practical nursing as defined in this section. Such a licensee shall be empowered to provide nursing services without compensation. The abbreviation "L.P.N." shall stand for such terms.

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

"Practice of a nurse aide" or "nurse aide practice" means the performance of services requiring the education, training, and skills specified in this chapter for certification as a nurse aide. Such services are performed under the supervision of a dentist, physician, podiatrist, professional nurse, licensed practical nurse, or other licensed health care professional acting within the scope of the requirements of his profession.

"Professional nurse," "registered nurse" or "registered professional nurse" means a person who is licensed under the provisions of this chapter to practice professional nursing as defined in this section. Such a licensee shall be empowered to provide professional services without compensation, to promote health and to teach health to individuals and groups. The abbreviation "R.N." shall stand for such terms.

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

Article 6.

Licensure of Midwives.

§ 54.1-3030. Licensure of midwives required; requisite training and educational requirements.

A. It shall be unlawful for any person to hold herself out as a licensed midwife unless she holds a

license to practice midwifery in the Commonwealth. The Board of Health shall license an applicant as a midwife after the applicant has submitted evidence satisfactory to the Board of Health that such applicant has (i) obtained the Certified Professional Midwife (CPM) credential offered by the North American Registry of Midwives (NARM), (ii) earned a current certification in adult and infant cardiopulmonary resuscitation (CPR), (iii) earned a high school diploma or equivalent, (iv) completed a minimum number of supervised and unsupervised deliveries and has experience in providing prenatal and postnatal care in accordance with national standards as determined by the Board of Health Professions, and (v) developed a written protocol for medical emergencies, including hospital admission. A copy of this protocol document, signed and dated by the client, must be kept in the client's files.

B. Persons seeking licensure as a midwife shall submit such information as required in the form and manner determined by the Board of Health.

C. Persons seeking licensure shall pay the required license fee as determined by the Board of Health.

§ 54.1-3031. Unlawful to practice without a license.

No person shall practice midwifery unless such person is licensed by the Board of Health.

§ 54.1-3032. Informed consent.

Any person practicing as a midwife pursuant to the provisions of this article shall obtain the informed, written consent of any client to whom midwifery care is provided. Such informed consent shall be obtained using forms provided by the Department of Health and shall include, but not be limited to, (i) disclosure of the licensed midwife's qualifications, experience, and training; (ii) a written protocol for medical emergencies, including hospital admission; (iii) a description of the midwifery model of care; (iv) a disclosure statement concerning the licensed midwife's malpractice or liability insurance coverage; (v) a description of the right to file a complaint with the Board of Health Professions and the procedures for filing a complaint; and (vi) such other information as the Board of Health Professions determines is appropriate to allow the client to make an informed choice to select licensed midwifery care and, if applicable, home birth.

§ 54.1-3033. Regulation of licensed midwives.

Regulations governing the practice of licensed midwifery shall be promulgated by the Board of Health Professions, upon consultation with the Advisory Council on Midwifery. Such regulations shall (i) address the requirements of this article; (ii) provide for an appropriate licensure fee; and (iii) include requirements for licensure renewal, continuing education and malpractice or liability insurance coverage. Licenses shall be valid for a period of three years with renewal contingent upon maintaining a Certified Professional Midwife certification and completing 30 hours of continuing education.

§ 54.1-3034. Advisory Council on Midwifery established; duties; composition; appointment; terms.

A. The Advisory Council on Midwifery, hereafter referred to as the "Advisory Council," shall assist the Board of Health Professions in formulating regulations pertaining to the practice of licensed midwifery.

B. The Advisory Council shall be appointed by the Governor for four-year terms and shall be composed of seven members, including one Certified Nurse Midwife with experience in out-of-hospital birth settings, three Certified Professional Midwives, one practicing physician with experience in obstetrics, and two consumer representatives who have used midwifery services. The initial appointments shall provide for staggered terms with three members being appointed for two-year terms, three members being appointed for three-year terms, and one member being appointed for a four-year term. All Advisory Council members shall be residents of the Commonwealth. Vacancies occurring other than by expiration of the term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Council for more than two full consecutive terms.

§ 54.1-3035. Immunity.

No physician, certified nurse midwife, or hospital providing emergency medical care or treatment of a woman or infant arising during childbirth as a consequence of the care received by a licensed midwife shall be liable for any civil damages for any act or omission resulting from the rendering of such services unless such act or omission was the result of gross negligence or willful misconduct.

2. That the Board of Health Professions shall promulgate regulations to implement the provisions of this act within 280 days of enactment of these provisions.

3. That Article 4 (§§ 32.1-145, 32.1-146, and 32.1-147) of Chapter 5 of Title 32.1 of the Code of Virginia is repealed effective on the date that the regulations to be promulgated by the Board of Health Professions become effective.