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**HOUSE BILL NO. 690**

Offered January 21, 2000

A *BILL to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-20.1, 2.1-20.1:02, 2.1-20.1:03, 2.1-20.1:04, 2.1-20.1:06, 2.1-20.1:5, 2.1-20.1:6, 2.1-51.27, 2.1-111, 2.1-113.1, 2.1-113.3, 2.1-114.3, 2.1-114.5, 2.1-114.7, 2.1-114.7:1, 2.1-116, 2.1-116.03, 2.1-116.07, 2.1-116.14, 2.1-116.21, 2.1-342.01, 2.1-404, 2.1-557, 15.2-1512.1, 15.2-1609.2, 22.1-209.2, 22.1-342.1, 23-50.16:24, 32.1-137.6, 51.1-126.1, 51.1-153, 51.1-205, 51.1-216, 51.1-502.1, 51.1-512.1, 51.1-513.1, 51.1-1101, 51.1-1106 and 62.1-129.1 of the Code of Virginia, relating to the Department of Personnel and Training.*

Patrons—Broman, Albo, Black, Blevins, Bloxom, Bryant, Byron, Cantor, Cox, Davis, Devolites, Drake, Dudley, Hamilton, Hargrove, Harris, Ingram, Jones, S.C., Katzen, Kilgore, Landes, Larrabee, Louderback, May, McClure, McDonnell, McQuigg, Morgan, Nixon, O'Brien, Parrish, Phillips, Putney, Reid, Rollison, Rust and Wardrup

Referred to Committee on General Laws

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

**1. That §§ 2.1-1.1, 2.1-1.3, 2.1-20.1, 2.1-20.1:02, 2.1-20.1:03, 2.1-20.1:04, 2.1-20.1:06, 2.1-20.1:5, 2.1-20.1:6, 2.1-51.27, 2.1-111, 2.1-113.1, 2.1-113.3, 2.1-114.3, 2.1-114.5, 2.1-114.7, 2.1-114.7:1, 2.1-116, 2.1-116.03, 2.1-116.07, 2.1-116.14, 2.1-116.21, 2.1-342.01, 2.1-404, 2.1-557, 15.2-1512.1, 15.2-1609.2, 22.1-209.2, 22.1-342.1, 23-50.16:24, 32.1-137.6, 51.1-126.1, 51.1-153, 51.1-205, 51.1-216, 51.1-502.1, 51.1-512.1, 51.1-513.1, 51.1-1101, 51.1-1106 and 62.1-129.1 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-1.1. Departments generally.

There shall be, in addition to such others as may be established by law, the following administrative departments of the state government:

- Chesapeake Bay Local Assistance Department.
- Department of Accounts.
- Department for the Aging.
- Department of Agriculture and Consumer Services.
- Department of Alcoholic Beverage Control.
- Department of Aviation.
- Department of Business Assistance.
- Department of Conservation and Recreation.
- Department of Corporations.
- Department of Correctional Education.
- Department of Corrections.
- Department of Criminal Justice Services.
- Department for the Deaf and Hard-of-Hearing.
- Department of Education.
- Department of Emergency Services.
- Department of Employee Relations Counselors.
- Department of Environmental Quality.
- Department of Fire Programs.
- Department of Forestry.
- Department of Game and Inland Fisheries.
- Department of General Services.
- Department of Health.
- Department of Health Professions.
- Department of Historic Resources.
- Department of Housing and Community Development.
- Department of Information Technology.
- Department of Juvenile Justice.
- Department of Labor and Industry.
- Department of Law.
- Department of Medical Assistance Services.
- Department of Mental Health, Mental Retardation and Substance Abuse Services.
- Department of Military Affairs.
- Department of Mines, Minerals and Energy.

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- 60 Department of Minority Business Enterprise.
- 61 Department of Motor Vehicles.
- 62 Department of ~~Personnel and Training~~ *Human Resource Management*.
- 63 Department of Planning and Budget.
- 64 Department of Professional and Occupational Regulation.
- 65 Department of Rail and Public Transportation.
- 66 Department of Rehabilitative Services.
- 67 Department for Rights of Virginians With Disabilities.
- 68 Department of Social Services.
- 69 Department of State Police.
- 70 Department of Taxation.
- 71 Department of Technology Planning.
- 72 Department of Transportation.
- 73 Department of the Treasury.
- 74 Department of Veterans' Affairs.
- 75 Department for the Visually Handicapped.
- 76 Governor's Employment and Training Department.
- 77 § 2.1-1.3. Entities subject to standard nomenclature.
- 78 The following independent administrative entities are subject to the standard nomenclature provisions
- 79 of § 2.1-1.2:
- 80 Chesapeake Bay Local Assistance Department.
- 81 Department of Accounts.
- 82 Department for the Aging.
- 83 Department of Agriculture and Consumer Services.
- 84 Department of Alcoholic Beverage Control.
- 85 Department of Aviation.
- 86 Department of Business Assistance.
- 87 Department of Conservation and Recreation.
- 88 Department of Correctional Education.
- 89 Department of Corrections.
- 90 Department of Criminal Justice Services.
- 91 Department for the Deaf and Hard-of-Hearing.
- 92 Department of Education.
- 93 Department of Emergency Services.
- 94 Department of Environmental Quality.
- 95 Department of Employee Relations Counselors.
- 96 Department of Fire Programs.
- 97 Department of Forestry.
- 98 Department of Game and Inland Fisheries.
- 99 Department of General Services.
- 100 Department of Health.
- 101 Department of Health Professions.
- 102 Department of Historic Resources.
- 103 Department of Housing and Community Development.
- 104 Department of Information Technology.
- 105 Department of Juvenile Justice.
- 106 Department of Labor and Industry.
- 107 Department of Medical Assistance Services.
- 108 Department of Mental Health, Mental Retardation and Substance Abuse Services.
- 109 Department of Military Affairs.
- 110 Department of Mines, Minerals and Energy.
- 111 Department of Minority Business Enterprise.
- 112 Department of Motor Vehicles.
- 113 Department of ~~Personnel and Training~~ *Human Resource Management*.
- 114 Department of Planning and Budget.
- 115 Department of Professional and Occupational Regulation.
- 116 Department of Rail and Public Transportation.
- 117 Department of Rehabilitative Services.
- 118 Department for Rights of Virginians With Disabilities.
- 119 Department of Social Services.
- 120 Department of State Police.
- 121 Department of Taxation.

122 Department of Technology Planning.

123 Department of Transportation.

124 Department of the Treasury.

125 Department of Veterans' Affairs.

126 Department for the Visually Handicapped.

127 Governor's Employment and Training Department.

128 § 2.1-20.1. Health and related insurance for state employees.

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

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

138 B. The plan shall:

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

148 b. In order to be considered a screening mammogram for which coverage shall be made available  
 149 under this section:

150 (1) The mammogram must be (i) ordered by a health care practitioner acting within the scope of his  
 151 licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance  
 152 organization physician, (ii) performed by a registered technologist, (iii) interpreted by a qualified  
 153 radiologist, and (iv) performed under the direction of a person licensed to practice medicine and surgery  
 154 and certified by the American Board of Radiology or an equivalent examining body. A copy of the  
 155 mammogram report must be sent or delivered to the health care practitioner who ordered it;

156 (2) The equipment used to perform the mammogram shall meet the standards set forth by the  
 157 Virginia Department of Health in its radiation protection regulations; and

158 (3) The mammography film shall be retained by the radiologic facility performing the examination in  
 159 accordance with the American College of Radiology guidelines or state law.

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

165 3. Include coverage for postpartum services providing inpatient care and a home visit or visits which  
 166 shall be in accordance with the medical criteria outlined in the most current version of or an official  
 167 update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the  
 168 American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic  
 169 Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be  
 170 provided incorporating any changes in such Guidelines or Standards within six months of the publication  
 171 of such Guidelines or Standards or any official amendment thereto.

172 4. a. Include an appeals process for resolution of written complaints concerning denials or partial  
 173 denials of claims that shall provide reasonable procedures for resolution of such written complaints and  
 174 shall be published and disseminated to all covered state employees. Such appeals process shall include a  
 175 separate expedited emergency appeals procedure which shall provide resolution within one business day  
 176 of receipt of a complaint concerning situations requiring immediate medical care. For appeals involving  
 177 adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more impartial  
 178 health entities to review such decisions. Impartial health entities may include medical peer review  
 179 organizations and independent utilization review companies. The Department shall adopt regulations to  
 180 assure that the impartial health entity conducting the reviews has adequate standards, credentials and  
 181 experience for such review. The impartial health entity shall examine the final denial of claims to  
 182 determine whether the decision is objective, clinically valid, and compatible with established principles

183 of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of  
184 fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if  
185 consistent with law and policy.

186 b. Prior to assigning an appeal to an impartial health entity, the Department shall verify that the  
187 impartial health entity conducting the review of a denial of claims has no relationship or association  
188 with (i) the covered employee, (ii) the treating health care provider, or any of its employees or affiliates,  
189 (iii) the medical care facility at which the covered service would be provided, or any of its employees or  
190 affiliates, or (iv) the development or manufacture of the drug, device, procedure or other therapy which  
191 is the subject of the final denial of a claim. The impartial health entity shall not be a subsidiary of, nor  
192 owned or controlled by, a health plan, a trade association of health plans, or a professional association  
193 of health care providers. There shall be no liability on the part of and no cause of action shall arise  
194 against any officer or employee of an impartial health entity for any actions taken or not taken or  
195 statements made by such officer or employee in good faith in the performance of his powers and duties.

196 5. Include coverage for early intervention services. For purposes of this section, "early intervention  
197 services" means medically necessary speech and language therapy, occupational therapy, physical therapy  
198 and assistive technology services and devices for dependents from birth to age three who are certified by  
199 the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for  
200 services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).  
201 Medically necessary early intervention services for the population certified by the Department of Mental  
202 Health, Mental Retardation and Substance Abuse Services shall mean those services designed to help an  
203 individual attain or retain the capability to function age-appropriately within his environment, and shall  
204 include services which enhance functional ability without effecting a cure.

205 For persons previously covered under the plan, there shall be no denial of coverage due to the  
206 existence of a preexisting condition. The cost of early intervention services shall not be applied to any  
207 contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the  
208 insured during the insured's lifetime.

209 6. Include coverage for prescription drugs and devices approved by the United States Food and Drug  
210 Administration for use as contraceptives.

211 7. Not deny coverage for any drug approved by the United States Food and Drug Administration for  
212 use in the treatment of cancer on the basis that the drug has not been approved by the United States  
213 Food and Drug Administration for the treatment of the specific type of cancer for which the drug has  
214 been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type  
215 of cancer in one of the standard reference compendia.

216 8. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has  
217 been approved by the United States Food and Drug Administration for at least one indication and the  
218 drug is recognized for treatment of the covered indication in one of the standard reference compendia or  
219 in substantially accepted peer-reviewed medical literature.

220 9. Include coverage for equipment, supplies and outpatient self-management training and education,  
221 including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using  
222 diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional  
223 legally authorized to prescribe such items under law. To qualify for coverage under this subdivision,  
224 diabetes outpatient self-management training and education shall be provided by a certified, registered or  
225 licensed health care professional.

226 10. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive  
227 breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy  
228 performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish  
229 symmetry between the two breasts. For persons previously covered under the plan, there may be no  
230 denial of coverage due to preexisting conditions.

231 11. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for  
232 annual testing performed by any FDA-approved gynecologic cytology screening technologies.

233 12. Include coverage providing a minimum stay in the hospital of not less than forty-eight hours for  
234 a patient following a radical or modified radical mastectomy and twenty-four hours of inpatient care  
235 following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast  
236 cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage  
237 where the attending physician in consultation with the patient determines that a shorter period of  
238 hospital stay is appropriate.

239 13. Include coverage (i) to persons age fifty and over and (ii) to persons age forty and over who are  
240 at high risk for prostate cancer, according to the most recent published guidelines of the American  
241 Cancer Society, for one PSA test in a twelve-month period and digital rectal examinations, all in  
242 accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing"  
243 means the analysis of a blood sample to determine the level of prostate specific antigen.

244 14. Permit any individual covered under the plan direct access to the health care services of a

245 participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered  
 246 individual. The plan shall have a procedure by which an individual who has an ongoing special  
 247 condition may, after consultation with the primary care physician, receive a referral to a specialist for  
 248 such condition who shall be responsible for and capable of providing and coordinating the individual's  
 249 primary and specialty care related to the initial specialty care referral. If such an individual's care would  
 250 most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist.  
 251 For the purposes of this subdivision, "special condition" means a condition or disease that is (i)  
 252 life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged  
 253 period of time. Within the treatment period authorized by the referral, such specialist shall be permitted  
 254 to treat the individual without a further referral from the individual's primary care provider and may  
 255 authorize such referrals, procedures, tests, and other medical services related to the initial referral as the  
 256 individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall  
 257 have a procedure by which an individual who has an ongoing special condition that requires ongoing  
 258 care from a specialist may receive a standing referral to such specialist for the treatment of the special  
 259 condition. If the primary care provider, in consultation with the plan and the specialist, if any,  
 260 determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a  
 261 specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to  
 262 provide written notification to the covered individual's primary care physician of any visit to such  
 263 specialist. Such notification may include a description of the health care services rendered at the time of  
 264 the visit.

265 15. a. Include provisions allowing employees to continue receiving health care services for a period  
 266 of up to ninety days from the date of the primary care physician's notice of termination from any of the  
 267 plan's provider panels.

268 b. The plan shall notify any provider at least ninety days prior to the date of termination of the  
 269 provider, except when the provider is terminated for cause.

270 c. For a period of at least ninety days from the date of the notice of a provider's termination from  
 271 any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be  
 272 permitted by the plan to render health care services to any of the covered employees who (i) were in an  
 273 active course of treatment from the provider prior to the notice of termination and (ii) request to  
 274 continue receiving health care services from the provider.

275 d. Notwithstanding the provisions of clause a, any provider shall be permitted by the plan to continue  
 276 rendering health services to any covered employee who has entered the second trimester of pregnancy at  
 277 the time of the provider's termination of participation, except when a provider is terminated for cause.  
 278 Such treatment shall, at the covered employee's option, continue through the provision of postpartum  
 279 care directly related to the delivery.

280 e. Notwithstanding the provisions of clause a, any provider shall be permitted by the plan to continue  
 281 rendering health services to any covered employee who is determined to be terminally ill (as defined  
 282 under § 1861 (dd) (3) (A) of the Social Security Act) at the time of a provider's termination of  
 283 participation, except when a provider is terminated for cause. Such treatment shall, at the covered  
 284 employee's option, continue for the remainder of the employee's life for care directly related to the  
 285 treatment of the terminal illness.

286 f. A provider who continues to render health care services pursuant to this subdivision shall be  
 287 reimbursed in accordance with the carrier's agreement with such provider existing immediately before  
 288 the provider's termination of participation.

289 16. a. Include coverage for patient costs incurred during participation in clinical trials for treatment  
 290 studies on cancer, including ovarian cancer trials.

291 b. The reimbursement for patient costs incurred during participation in clinical trials for treatment  
 292 studies on cancer shall be determined in the same manner as reimbursement is determined for other  
 293 medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles,  
 294 copayments and coinsurance factors that are no less favorable than for physical illness generally.

295 c. For purposes of this subdivision:

296 "Cooperative group" means a formal network of facilities that collaborate on research projects and  
 297 have an established NIH-approved peer review program operating within the group. "Cooperative group"  
 298 includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer  
 299 Institute Community Clinical Oncology Program.

300 "FDA" means the Federal Food and Drug Administration.

301 "Multiple project assurance contract" means a contract between an institution and the federal  
 302 Department of Health and Human Services that defines the relationship of the institution to the federal  
 303 Department of Health and Human Services and sets out the responsibilities of the institution and the  
 304 procedures that will be used by the institution to protect human subjects.

305 "NCI" means the National Cancer Institute.

306 "NIH" means the National Institutes of Health.

307 "Patient" means a person covered under the plan established pursuant to this section.

308 "Patient cost" means the cost of a medically necessary health care service that is incurred as a result  
309 of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not  
310 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the  
311 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research  
312 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

313 d. Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be  
314 provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such  
315 treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a  
316 Phase I clinical trial.

317 e. The treatment described in clause d shall be provided by a clinical trial approved by:

318 (1) The National Cancer Institute;

319 (2) An NCI cooperative group or an NCI center;

320 (3) The FDA in the form of an investigational new drug application;

321 (4) The federal Department of Veterans Affairs; or

322 (5) An institutional review board of an institution in the Commonwealth that has a multiple project  
323 assurance contract approved by the Office of Protection from Research Risks of the NCI.

324 f. The facility and personnel providing the treatment shall be capable of doing so by virtue of their  
325 experience, training, and expertise.

326 g. Coverage under this section shall apply only if:

327 (1) There is no clearly superior, noninvestigational treatment alternative;

328 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will  
329 be at least as effective as the noninvestigational alternative; and

330 (3) The patient and the physician or health care provider who provides services to the patient under  
331 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to  
332 procedures established by the plan.

333 17. Include coverage providing a minimum stay in the hospital of not less than twenty-three hours  
334 for a covered employee following a laparoscopy-assisted vaginal hysterectomy and forty-eight hours for  
335 a covered employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally  
336 recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the  
337 total hours referenced when the attending physician, in consultation with the covered employee,  
338 determines that a shorter hospital stay is appropriate.

339 18. (Effective until July 1, 2004) a. Include coverage for biologically based mental illness.

340 b. For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous  
341 condition caused by a biological disorder of the brain that results in a clinically significant syndrome  
342 that substantially limits the person's functioning; specifically, the following diagnoses are defined as  
343 biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective  
344 disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder,  
345 attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

346 c. Coverage for biologically based mental illnesses shall neither be different nor separate from  
347 coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit  
348 year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment  
349 limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment  
350 and coinsurance factors.

351 d. Nothing shall preclude the undertaking of usual and customary procedures to determine the  
352 appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this  
353 option, provided that all such appropriateness and medical necessity determinations are made in the same  
354 manner as those determinations made for the treatment of any other illness, condition or disorder  
355 covered by such policy or contract.

356 e. In no case, however, shall coverage for mental disorders provided pursuant to this section be  
357 diminished or reduced below the coverage in effect for such disorders on January 1, 1999.

358 C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from  
359 such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be  
360 deposited in the employee health insurance fund, from which payments for claims, premiums, cost  
361 containment programs and administrative expenses shall be withdrawn from time to time. The funds of  
362 the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from  
363 all other funds of the Commonwealth, and shall be invested and administered solely in the interests of  
364 the employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee,  
365 or agency shall use or authorize the use of such trust funds for any purpose other than as provided in  
366 law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight  
367 of the health insurance fund.

368 D. For the purposes of this section:

369 "Peer-reviewed medical literature" means a scientific study published only after having been critically  
 370 reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal  
 371 that has been determined by the International Committee of Medical Journal Editors to have met the  
 372 Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical  
 373 literature does not include publications or supplements to publications that are sponsored to a significant  
 374 extent by a pharmaceutical manufacturing company or health carrier.

375 "Standard reference compendia" means the American Medical Association Drug Evaluations, the  
 376 American Hospital Formulary Service Drug Information, or the United States Pharmacopoeia Dispensing  
 377 Information.

378 "State employee" means state employee as defined in § 51.1-124.3, employee as defined in  
 379 § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301  
 380 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and  
 381 domestic relations, and district courts of the Commonwealth, interns and residents employed by the  
 382 School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of  
 383 the Medical College of Virginia Hospitals Authority as provided in § 23-50.16:24.

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

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

390 G. The plan established by the Department shall include, in each planning district, at least two health  
 391 coverage options, each sponsored by unrelated entities. In each planning district that does not have an  
 392 available health coverage alternative, the Department shall voluntarily enter into negotiations at any time  
 393 with any health coverage provider who seeks to provide coverage under the plan. This section shall not  
 394 apply to any state agency authorized by the Department to establish and administer its own health  
 395 insurance coverage plan separate from the plan established by the Department.

396 H. 1. Any self-insured group health insurance plan established by the Department of ~~Personnel~~ *Human*  
 397 *Resource Management* that includes coverage for prescription drugs on an outpatient basis may apply a  
 398 formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed  
 399 at least annually, and updated as necessary in consultation with and with the approval of a pharmacy  
 400 and therapeutics committee, a majority of whose members are actively practicing licensed (i)  
 401 pharmacists, (ii) physicians, and (iii) other health care providers.

402 2. If the plan maintains one or more drug formularies, the plan shall establish a process to allow a  
 403 person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs  
 404 in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable  
 405 investigation and consultation with the prescribing physician, the formulary drug is determined to be an  
 406 inappropriate therapy for the medical condition of the person. The plan shall act on such requests within  
 407 one business day of receipt of the request.

408 I. Any plan established by the Department of ~~Personnel and Training~~ *Human Resource Management*  
 409 requiring preauthorization prior to rendering medical treatment shall have personnel available to provide  
 410 authorization at all times when such preauthorization is required.

411 J. Any plan established by the Department of ~~Personnel and Training~~ *Human Resource Management*  
 412 shall provide to all covered employees written notice of any benefit reductions during the contract  
 413 period at least thirty days before such reductions become effective.

414 K. No contract between a provider and any plan established by the Department of ~~Personnel and~~  
 415 ~~Training~~ *Human Resource Management* shall include provisions which require a health care provider or  
 416 health care provider group to deny covered services that such provider or group knows to be medically  
 417 necessary and appropriate that are provided with respect to a covered employee with similar medical  
 418 conditions.

419 L. 1. The Department of ~~Personnel and Training~~ *Human Resource Management* shall appoint an  
 420 Ombudsman to promote and protect the interests of covered employees under any state employee's  
 421 health plan.

422 2. The Ombudsman shall:

423 a. Assist covered employees in understanding their rights and the processes available to them  
 424 according to their state health plan.

425 b. Answer inquiries from covered employees by telephone and electronic mail.

426 c. Provide to covered employees information concerning the state health plans.

427 d. Develop information on the types of health plans available, including benefits and complaint  
 428 procedures and appeals.

429 e. Make available, either separately or through an existing Internet web site utilized by the  
430 Department of ~~Personnel and Training~~*Human Resource Management*, information as set forth in clause d  
431 and such additional information as he deems appropriate.

432 f. Maintain data on inquiries received, the types of assistance requested, any actions taken and the  
433 disposition of each such matter.

434 g. Upon request, assist covered employees in using the procedures and processes available to them  
435 from their health plan, including all appeal procedures. Such assistance may require the review of health  
436 care records of a covered employee, which shall be done only with that employee's express written  
437 consent. The confidentiality of any such medical records shall be maintained in accordance with the  
438 confidentiality and disclosure laws of the Commonwealth.

439 h. Ensure that covered employees have access to the services provided by the Ombudsman and that  
440 the covered employees receive timely responses from the Ombudsman or his representatives to the  
441 inquiries.

442 i. Report annually on his activities to the standing committees of the General Assembly having  
443 jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of  
444 each year.

445 M. 1. The plan established by the Department of ~~Personnel and Training~~*Human Resource*  
446 *Management* shall not refuse to accept or make reimbursement pursuant to an assignment of benefits  
447 made to a dentist or oral surgeon by a covered employee.

448 2. For purposes of this subsection, "assignment of benefits" means the transfer of dental care  
449 coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be  
450 effective until the covered employee notifies the plan in writing of the assignment.

451 § 2.1-20.1:02. Health insurance program for employees of local governments, local officers, teachers,  
452 etc.; definitions.

453 A. The Department of ~~Personnel and Training~~*Human Resource Management* shall establish a plan or  
454 plans subject to the approval of the Governor, for providing health insurance coverage for employees of  
455 local governments, local officers, teachers, and retirees, and the dependents of such employees, officers,  
456 teachers and retirees. The plan or plans shall be rated separately from the plan established pursuant to  
457 § 2.1-20.1 to provide health and related insurance coverage for state employees. Participation in such  
458 insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing  
459 body, or by the local school board in the case of teachers, and (iii) subject to regulations promulgated  
460 by the Department.

461 B. The plan established by the Department shall satisfy the requirements of the Virginia Public  
462 Procurement Act (§ 11-35 et seq.), shall consist of a flexible benefits structure which permits the  
463 creation of multiple plans of benefits and may provide for separate rating groups based upon criteria  
464 established by the Department. The Department shall promulgate regulations regarding the establishment  
465 of such a plan or plans, including, but not limited to, requirements for eligibility, participation, access  
466 and egress, mandatory employer contributions and financial reserves, and the administration of the plan  
467 or plans. The Department may engage the services of other professional advisors and vendors as  
468 necessary for the prudent administration of the plan or plans. The assets of the plan or plans, together  
469 with all appropriations, premiums and other payments, shall be deposited in the employee health  
470 insurance fund, from which payments for claims, premiums, cost containment programs and  
471 administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for  
472 the sole benefit of the employee health insurance fund. The fund shall be held in the state treasury. Any  
473 interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer  
474 shall charge reasonable fees to recover the actual costs of investing the assets of the plan or plans.

475 In establishing the participation requirements, the Department may provide that those employees,  
476 officers, and teachers without access to employer-sponsored health care coverage may participate in the  
477 plan. It shall collect all premiums directly from the employers of such employees, officers, and teachers.

478 C. In the administration of the plan or plans, the Department shall take into consideration the  
479 recommendations made by an advisory committee. Such advisory committee shall be composed of at  
480 least five members to be appointed by the Governor, with at least one member representing each of the  
481 following groups: local governments, local officers, local school boards, teachers, and retirees.  
482 Committee members shall be reimbursed for the expenses incurred by them as members of the  
483 committee but shall not be otherwise compensated for their services. The terms of service for the  
484 advisory committee members shall be established by the Department.

485 D. In the event that the financial reserves of the plan fall to an unacceptably low level as determined  
486 by the Department, it shall have the authority to secure from the State Treasurer a loan sufficient to  
487 raise the reserve level to one which is considered adequate. The State Treasurer is hereby authorized to  
488 make such a loan, to be repaid on such terms and conditions as established by him.

489 E. For the purposes of this section, the following terms shall have the meanings indicated:

490 "Employees of local governments" shall include all officers and employees of the governing body of

491 any county, city or town, and the directing or governing body of any political entity, subdivision, branch  
 492 or unit of the Commonwealth or of any commission or public authority or body corporate created by or  
 493 under an act of the General Assembly specifying the power or powers, privileges or authority capable of  
 494 exercise by the commission or public authority or body corporate, as distinguished from §§ 15.1-20,  
 495 15.1-21, or similar statutes, provided that the officers and employees of a social services department,  
 496 welfare board, mental health, mental retardation and substance abuse services board, or library board of  
 497 a county, city, or town shall be deemed to be employees of local government.

498 "Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the  
 499 Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or  
 500 employees of any of the preceding local officers.

501 "Teacher" means any employee of a county, city, or other local public school board.

502 F. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross  
 503 and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance  
 504 company to a stock corporation known as Trigon Healthcare, Inc., that is directly attributable to the  
 505 health insurance plan or plans established for employees of local governments, local officers, teachers,  
 506 and retirees, and the dependents of such employees, officers, teachers and retirees, pursuant to  
 507 subsection A (hereinafter referred to as the "local choice plan distribution") shall be deposited in the  
 508 state treasury to the credit of the employee health insurance fund to be used as provided in this  
 509 subsection. Such distribution shall not include any cash paid by Blue Cross and Blue Shield of Virginia  
 510 or its successor to the Commonwealth in connection with such conversion which was assumed as  
 511 general fund revenue in Chapter 912 of the 1996 Acts of Assembly. All other stock and cash received  
 512 by the Commonwealth pursuant to such conversion of Blue Cross and Blue Shield of Virginia to a stock  
 513 corporation shall be allocated as provided in subsection B of § 23-284.

514 The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as  
 515 soon as practicable following its receipt, subject to any lockup period or other restriction on its sale, and  
 516 the proceeds therefrom shall be deposited in the state treasury to the credit of the employee health  
 517 insurance fund. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not  
 518 be liable for any losses incurred from the sale or distribution of such stock.

519 The Department of ~~Personnel and Training~~*Human Resource Management* shall use any stock, or the  
 520 proceeds therefrom, and cash received pursuant to the local choice plan distribution to reduce premiums  
 521 payable by employers participating in a plan or plans established pursuant to subsection A. In setting  
 522 health insurance premiums for such plan or plans, the Director of the Department of ~~Personnel and~~  
 523 ~~Training~~*Human Resource Management* shall allocate the value of such stock, or proceeds therefrom, and  
 524 cash among each participating employer. Such allocation shall be based on the proportionate amounts of  
 525 premiums previously paid by each participating employer. If a participating employer withdraws from  
 526 such plan or plans before all of the value allocated to it has been used for the benefit of the  
 527 participating employer, the remaining value shall be transferred to such participating employer upon his  
 528 withdrawal.

529 § 2.1-20.1:03. Purchase of continued health insurance coverage by the surviving spouse and any  
 530 dependents of an active or retired state employee.

531 A. The surviving spouse and any dependents of an active state employee or a retired state employee  
 532 shall be entitled, upon proper application to the Department of ~~Personnel and Training~~*Human Resource*  
 533 *Management*, to purchase continued health insurance coverage on the following conditions: (i) on the  
 534 date of death, the state employee participated in a health insurance plan administered by the Department  
 535 of ~~Personnel and Training~~*Human Resource Management* pursuant to § 2.1-20.1 or § 2.1-20.1:02 and (ii)  
 536 on the date of the deceased's death, the applicants were included in the health insurance plan in  
 537 condition (i) of this subsection. The health insurance plans administered by the Department of ~~Personnel~~  
 538 ~~and Training~~*Human Resource Management* pursuant to § 2.1-20.1 or § 2.1-20.1:02 shall provide means  
 539 whereby coverage for the spouse and dependents of active or retired state employees may be purchased.

540 B. Any application to purchase continued health insurance coverage hereunder shall be made in  
 541 writing to the Department of ~~Personnel and Training~~*Human Resource Management* within sixty days of  
 542 the date of the deceased's death. The time for making application may be extended by the Department  
 543 for good cause shown.

544 C. In addition to any necessary information requested by the Department of ~~Personnel and~~  
 545 ~~Training~~*Human Resource Management*, the application shall state whether conditions (i) and (ii) set  
 546 forth in subsection A of this section have been met. If the Department states that such conditions have  
 547 not been met, the Department shall conduct an informal fact-finding conference or consultation with the  
 548 applicant pursuant to § 9-6.14:11 of the Administrative Process Act. Upon scheduling the conference or  
 549 consultation, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) shall apply thereafter.

550 D. Upon payment of any required premiums, coverage shall automatically be extended during the  
 551 period for making application and shall be effective retroactive to the date of the deceased's death.

552 E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall  
553 be subject to administration by the Department of ~~Personnel and Training~~*Human Resource Management*.  
554 The Department may increase the cost of coverage consistent with its administration of health insurance  
555 plans under § 2.1-20.1 or § 2.1-20.1:02.

556 F. For the surviving spouse, continued health insurance coverage purchased hereunder shall  
557 automatically terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate  
558 health insurance coverage being obtained, or (iv) any applicable condition outlined in the policies and  
559 procedures of the Department of ~~Personnel and Training~~*Human Resource Management* governing health  
560 insurance plans administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

561 G. For any surviving dependents, continued health insurance coverage purchased hereunder shall  
562 automatically terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate  
563 health insurance coverage being obtained; (iv) attaining the age of twenty-one, unless the dependent is  
564 (a) a full-time college student, in which event coverage shall not terminate until such dependent has  
565 either attained the age of twenty-five or until such time as the dependent ceases to be a full-time college  
566 student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage  
567 shall not terminate until three months following cessation of the disability; or (v) any applicable  
568 condition outlined in the policies and procedures of the Department of ~~Personnel and Training~~*Human*  
569 *Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1 or  
570 § 2.1-20.1:02.

571 § 2.1-20.1:04. Purchase of continued health insurance coverage by the surviving spouse and any  
572 dependents of an active or retired local law-enforcement officer, firefighter, etc.

573 A. The surviving spouse and any dependents of an active or retired law-enforcement officer of any  
574 county, city, or town of this Commonwealth; a jail officer; a regional jail or jail farm superintendent; a  
575 sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a member of  
576 any fire company or department or rescue squad which has been recognized by an ordinance or a  
577 resolution of the governing body of any county, city, or town of this Commonwealth as an integral part  
578 of the official safety program of such county, city or town; or a member of an emergency medical  
579 services department, whose death occurs as the direct or proximate result of the performance of his duty,  
580 including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, shall be entitled, upon  
581 proper application to the Department of ~~Personnel and Training~~*Human Resource Management*, to  
582 purchase continued health insurance coverage on the following conditions: (i) on the date of death, the  
583 deceased participated in a health insurance plan administered by the Department of ~~Personnel and~~  
584 ~~Training~~*Human Resource Management* pursuant to § 2.1-20.1:02 and (ii) on the date of the deceased's  
585 death, the applicants were included in the health insurance plan in condition (i) of this subsection. The  
586 health insurance plan administered by the Department of ~~Personnel and Training~~*Human Resource*  
587 *Management* pursuant to § 2.1-20.1:02 shall provide means whereby coverage for the spouse and any  
588 dependents of the deceased as provided in this section may be purchased. The spouse and any  
589 dependents of the deceased who purchase continued health insurance coverage pursuant to this section  
590 shall pay the same portion of the applicable premium as active employees pay for the same class of  
591 coverage, and the local government employer that employed the deceased shall pay the remaining  
592 portion of the premium.

593 B. Any application to purchase continued health insurance coverage hereunder shall be made in  
594 writing to the Department of ~~Personnel and Training~~*Human Resource Management* within sixty days of  
595 the date of the deceased's death. The time for making application may be extended by the Department  
596 for good cause shown.

597 C. In addition to any necessary information requested by the Department of ~~Personnel and~~  
598 ~~Training~~*Human Resource Management*, the application shall state whether conditions (i) and (ii) set  
599 forth in subsection A of this section have been met. If the Department states that such conditions have  
600 not been met, the Department shall conduct an informal fact-finding conference or consultation with the  
601 applicant pursuant to § 9-6.14:11 of the Administrative Process Act. Upon scheduling the conference or  
602 consultation, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) shall apply thereafter.

603 D. Upon payment of any required premiums, coverage shall automatically be extended during the  
604 period for making application and shall be effective retroactive to the date of the deceased's death.

605 E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall  
606 be subject to administration by the Department of ~~Personnel and Training~~*Human Resource Management*.  
607 The Department may increase the cost of coverage consistent with its administration of health insurance  
608 plans under § 2.1-20.1:02. However, at no time shall a surviving spouse or dependents pay more for  
609 continued health insurance coverage than active employees pay under the same plan for the same class  
610 of coverage.

611 F. For the surviving spouse, continued health insurance coverage purchased hereunder shall  
612 automatically terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate  
613 health insurance coverage being obtained, or (iv) any applicable condition outlined in the policies and

614 procedures of the Department of ~~Personnel and Training~~*Human Resource Management* governing health  
615 insurance plans administered pursuant to § 2.1-20.1:02.

616 G. For any surviving dependents, continued health insurance coverage purchased hereunder shall  
617 automatically terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate  
618 health insurance coverage being obtained; (iv) attaining the age of twenty-one, unless the dependent is  
619 (a) a full-time college student, in which event coverage shall not terminate until such dependent has  
620 either attained the age of twenty-five or until such time as the dependent ceases to be a full-time college  
621 student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage  
622 shall not terminate until three months following cessation of the disability; or (v) any applicable  
623 condition outlined in the policies and procedures of the Department of ~~Personnel and Training~~*Human*  
624 *Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1:02.

625 § 2.1-20.1:06. Purchase of health insurance coverage by part-time state employees.

626 A. Any part-time state employee employed by the Commonwealth and working twenty or more hours  
627 per week for a period of at least six months shall be entitled, upon proper application to the Department  
628 of ~~Personnel and Training~~*Human Resource Management* (the Department), to purchase health insurance  
629 coverage for himself through a health insurance plan administered by the Department. This plan for  
630 part-time employees may differ from the other plans sponsored by the Department for state employees  
631 and shall be exempt from all mandates contained in § 2.1-20.1.

632 B. Applications to purchase health insurance coverage hereunder shall be made on an application  
633 form prescribed by the Department. In addition to his application, the applicant shall provide any  
634 necessary supporting documents requested by the Department.

635 C. Upon payment of the required premiums, coverage shall be effective retroactive to the date of the  
636 application.

637 D. The terms, conditions, and costs of health insurance coverage purchased hereunder shall be  
638 subject to administration by the Department. The Department may increase the cost of coverage  
639 consistent with its administration of the health insurance plans under § 2.1-20.1.

640 E. Health insurance coverage purchased hereunder shall automatically terminate upon the occurrence  
641 of any of the following: (i) the applicant's death, (ii) alternate health insurance coverage being obtained  
642 by the applicant, (iii) the applicant's separation from state service, or (iv) any applicable condition  
643 outlined in the policies and procedures of the Department governing its administration of health  
644 insurance plans pursuant to § 2.1-20.1.

645 § 2.1-20.1:5. Optional supplemental health insurance credit for retired state employees.

646 A. As used in this section, "lump sum payment amount" means the amount a state employee is  
647 entitled to be paid upon the date of retirement from state service, in accordance with the applicable rules  
648 and procedures of the employee's agency or institution, for any (i) accumulated annual leave balance, (ii)  
649 accumulated sick leave balance, and (iii) wages and salary for any period for which the employee  
650 worked and has not yet been paid.

651 B. Any state employee retiring from service pursuant to subsection A, B or D of § 51.1-153,  
652 § 51.1-156, subsection A, B or D of § 51.1-205, or subsection A, B or B1 of § 51.1-305 on or after July  
653 1, 1999, who participates in the state health insurance plan, shall have the option to require that his  
654 lump sum payment amount be credited to a supplemental health insurance credit account which would  
655 qualify under Internal Revenue Code § 125 to be used to supplement the amount of the monthly health  
656 insurance credit provided pursuant to § 2.1-20.1:2. Such option shall be irrevocably exercised on or  
657 before the employee's last day of service.

658 C. Amounts credited to supplemental health insurance credit accounts shall be deposited in a special  
659 fund in the state treasury. Interest accruing on amounts in the special fund shall be credited pro rata  
660 among the accounts. Amounts shall be paid from the special fund at the request of the Department of  
661 ~~Personnel and Training~~*Human Resource Management*, which shall determine, in cooperation with the  
662 Board of Trustees of the Virginia Retirement System, the amount required to be withdrawn from an  
663 electing retired employee's supplemental health insurance credit account in order to cover, in conjunction  
664 with the health care credit, the premium for the retiree-only or family health insurance coverage.

665 D. Amounts in a retiree's supplemental health insurance credit account shall be exempt from taxation  
666 and exempt from execution, attachment, garnishment or any other process to the same extent, and  
667 subject to the same conditions, as are retirement allowances and benefits pursuant to § 51.1-124.4.

668 E. In the event that an electing retiree dies prior to exhausting the amount in the retiree's  
669 supplemental health insurance credit account, the balance in the account shall be paid in the same  
670 manner as provided in § 51.1-163.

671 § 2.1-20.1:6. Participation in the state retiree health benefits program.

672 A. As used in this section:

673 "Involuntarily separated" means separated from state service as the result of any dismissal, requested  
674 resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a

675 felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or  
676 misconduct of the state employee.

677 "Retiree health benefits program" or "program" means the plan for providing health insurance  
678 coverage for retired state employees provided pursuant to subsection E of § 2.1-20.1.

679 "State employee" has the same meaning as defined in § 2.1-20.1.

680 "State retiree" means a state employee retired under the Virginia Retirement System, State Police  
681 Officers' Retirement System, Judicial Retirement System or any retirement system authorized pursuant to  
682 § 51.1-126, who is eligible to receive a monthly retirement annuity from that retirement system.

683 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he  
684 makes an election to participate in the program within thirty-one days following the date of termination  
685 of employment with the Commonwealth. A retired state employee who fails to elect to participate in the  
686 state health plan within thirty-one days of the effective date of retirement, or who, once having elected  
687 to participate, discontinues participation, is barred from participating in the state health plan thereafter.

688 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the  
689 retiree health benefits program and is receiving monthly retirement annuity payments may elect, by  
690 notifying the Virginia Retirement System and the Department of ~~Personnel and Training~~*Human Resource*  
691 *Management* before September 1, 1999, to cease receiving monthly retirement annuity payments until  
692 reapplying for such benefits at a later date and to continue participation in the retiree health benefits  
693 program.

694 § 2.1-51.27. Agencies for which responsible.

695 The Secretary of Administration shall be responsible to the Governor for the following agencies and  
696 boards: Department of ~~Personnel and Training~~*Human Resource Management*, Department of General  
697 Services, Compensation Board, Secretary of the Commonwealth, Department of Employee Relations  
698 Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees,  
699 Commission on Local Government, Charitable Gaming Commission, and Virginia Public Broadcasting  
700 Board. The Governor may, by executive order, assign any other state executive agency to the Secretary  
701 of Administration, or reassign any agency listed above to another secretary.

702 § 2.1-111. Appointments, promotions and tenure based upon merit and fitness.

703 In accordance with the provisions of this chapter all appointments and promotions to and tenure in  
704 positions in the service of the Commonwealth shall be based upon merit and fitness, to be ascertained,  
705 as far as possible, by the competitive rating of qualifications by the respective appointing authorities.

706 Persons holding positions in the service of the Commonwealth on July 1, 1952, shall be deemed to  
707 be holding their positions as though they had received appointment under the terms of this chapter.

708 Persons who, on such date, had left the service of the Commonwealth for service in any of the  
709 armed forces of the United States shall be deemed to have held the positions which they had thus left as  
710 though they had received appointment under the terms of this chapter, and all such persons, as well as  
711 persons who thereafter leave the service of the Commonwealth for service in such armed forces, shall be  
712 entitled to be restored to such positions upon the termination of their service with the armed forces,  
713 provided such persons, except for good cause shown, have filed an application for restoration to such  
714 positions within ninety calendar days following such termination of military service, accompanied by a  
715 certificate attesting that the military duty was satisfactorily performed. Such persons shall thereafter hold  
716 such positions as though they had received appointment under the terms of this chapter, except as to any  
717 such position which, in the meantime, may have been abolished; and any such former employee  
718 returning to, or applying for, employment in the state service, as provided by this section, shall be  
719 considered as having at least as favorable a status with reference to this chapter as he would have  
720 occupied if his service had been continuous.

721 Provided, however, that with respect to state employees who enter on active military duty in the  
722 armed forces of the United States after June 30, 1956, such rights shall extend only to such employees  
723 who (a) have appointments other than temporary in state service prior to entering on active military  
724 duty, and (b) serve not more than four years on active military duty or such longer periods as shall be  
725 fixed by the Governor, and (c) have a certificate attesting that the military duty was satisfactorily  
726 completed, and (d) apply for reinstatement in state service not later than ninety calendar days following  
727 separation from active military duty unless a longer period be approved by the Governor.

728 No establishment of a position or rate of pay, and no change in rate of pay shall become effective  
729 except on order of the appointing authority and approval by the Governor; provided, however, that this  
730 paragraph shall not apply to any position the compensation of which is at a rate of \$1,200 per annum or  
731 less.

732 Provided, further, however, that in order to attract and retain professional auditors, accountants and  
733 staff members in the service of the Auditor of Public Accounts, the Joint Legislative Audit and Review  
734 Commission may establish scales of pay for such positions notwithstanding the provisions of this  
735 chapter. Such scales when established and certified to the Department of ~~Personnel and Training~~*Human*  
736 *Resource Management* and the Comptroller shall be applicable in the stead of the scales established

737 under the personnel plan.

738 § 2.1-113.1. Personnel Advisory Committee continued as Personnel Advisory Board; membership;  
739 terms.

740 The Personnel Advisory Committee is continued and shall hereafter be known as the Personnel  
741 Advisory Board. The Board shall consist of eleven members, as follows: four management state  
742 employees; four nonsupervisory state employees; and three members from the public at large, who shall  
743 be appointed by the Governor and subject to confirmation by the General Assembly. The members shall  
744 serve for four-year terms and no member shall serve for more than two full successive terms. In  
745 addition, the Director of the Department of ~~Personnel and Training~~Human Resource Management and  
746 the Director of the Department of Employee Relations Counselors shall serve permanently as ex officio  
747 members without voting privileges. A chairman of the Board shall be elected annually by the Board.

748 § 2.1-113.3. Personnel Advisory Committee continued as Personnel Advisory Board; powers and  
749 duties.

750 The Personnel Advisory Board shall exercise the following powers and duties and such others as  
751 may be provided by law:

752 1. Advise the Governor, the Director of the Department of ~~Personnel and Training~~Human Resource  
753 Management and the Director of the Department of Employee Relations Counselors on all matters  
754 relating to personnel administration.

755 2. Review all public employer-employee relations throughout the Commonwealth.

756 3. Review the Department of Employee Relations Counselors' program of employee-management  
757 relations and make recommendations to improve communications between employees and agencies and  
758 instrumentalities of the Commonwealth.

759 4. Carry out such other functions as the Governor deems appropriate.

760 5. Review the Department of ~~Personnel and Training~~Human Resource Management's training and  
761 management programs, compensation and classification practices, benefit programs, and recruitment  
762 practices.

763 § 2.1-114.3. Department of Personnel and Training continued as the Department of Human Resource  
764 Management; Director.

765 ~~There is hereby created a~~ The Department of Personnel and Training *is hereby continued as the*  
766 *Department of Human Resource Management.* The Department shall be headed by the Director of  
767 ~~Personnel and Training~~Human Resource Management.

768 § 2.1-114.5. Duties of Department.

769 The Department shall have the following duties:

770 1. Make recommendations to the Governor regarding the establishment and maintenance of a  
771 classification plan for the service of the Commonwealth, and recommend amendments thereto as may be  
772 necessary.

773 2. Make recommendations to the Governor regarding the establishment and administration of a  
774 compensation plan for all employees, and recommend amendments thereto as may be necessary.

775 3. Design and maintain a personnel information system which shall support the operational needs of  
776 the Department and of state agencies, and which shall provide for the management information needs of  
777 the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a  
778 roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each  
779 employee, the employing agency, the class title, pay, status and such other data as may be deemed  
780 desirable to produce significant facts pertaining to personnel administration.

781 4. Establish and direct a program of employee-management relations designed to improve  
782 communications between employees and agencies of the Commonwealth.

783 5. Establish and administer a system of performance evaluation for all employees in the service of  
784 the Commonwealth, based on the quality of service rendered, related where practicable to specific  
785 standards of performance. In no event shall workers' compensation leave affect the total number of hours  
786 credited during a performance cycle for purposes of calculating incentive increases in salary based on  
787 such performance evaluations.

788 6. Establish and administer a system of recruitment designed to attract high quality employees to the  
789 service of the Commonwealth. In administering this system, applicants shall be rated on the basis of  
790 relative merit and classified in accordance with their suitability for the various classes of positions in the  
791 service of the Commonwealth, and a record thereof shall be maintained in the open register.

792 7. Design and utilize an application form which shall include, but not be limited to, information on  
793 prior volunteer work performed by the applicant.

794 8. Establish and administer a comprehensive and integrated program of employee training and  
795 management development.

796 9. Establish and administer a program of evaluation of the effectiveness of performance of the  
797 personnel activities of the agencies of the Commonwealth.

798 10. Establish and administer a program to assure equal employment opportunity to applicants for  
799 state employment and to state employees in all incidents of employment.

800 11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary  
801 action shall include the suspension without pay for more than ten days of any state employee who is  
802 under investigation without a hearing conducted either by a level of supervision above the employee's  
803 immediate supervisor or by his agency head.

804 12. Adopt and implement a program of meritorious service awards to employees who propose  
805 procedures or ideas which are adopted and which will result in eliminating or reducing state  
806 expenditures or improving operations, provided such proposals are placed in effect.

807 13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret  
808 state personnel policies and procedures to all agencies. Such personnel policies shall permit an  
809 employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued  
810 paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid  
811 sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of  
812 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an  
813 acceptable use policy for the international network of computer systems commonly known as the  
814 Internet. At a minimum, the Department's acceptable use policy shall contain provisions which (i)  
815 prohibit use by state employees of the Commonwealth's computer equipment and communications  
816 services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii)  
817 establish strict disciplinary measures for violation of the acceptable use policy. An agency head may  
818 supplement the Department's acceptable use policy with such other terms, conditions, and requirements  
819 as he deems appropriate. The Director of the Department of ~~Personnel and Training~~*Human Resource*  
820 *Management* shall have the final authority to establish and interpret personnel policies and procedures  
821 and shall have the authority to assure full compliance with such policies. However, unless specifically  
822 authorized by law, the Director of the Department of ~~Personnel and Training~~*Human Resource*  
823 *Management* shall have no authority with respect to the state grievance procedures.

824 14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of  
825 the Commonwealth, including permanent full-time and part-time employees, those employed on a  
826 temporary or contractual basis, and constitutional officers and their employees whose salaries are funded  
827 by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel  
828 from the previous fiscal year. Effective July 1, 1995, the publication shall include net gains and losses  
829 in personnel for each agency for a three-year period.

830 § 2.1-114.7. Duties of agencies and their appointing authorities.

831 The heads of state agencies shall be the appointing authorities of the respective agencies, and shall  
832 establish and maintain within their agencies such methods of administration relating to the establishment  
833 and maintenance of personnel standards on a merit basis as are approved by the Governor for the proper  
834 and efficient enforcement of this chapter. But the Governor shall exercise no authority with respect to  
835 the selection or tenure of office of any individual employed in accordance with such methods, except  
836 when the Governor is the appointing authority.

837 At their discretion, appointing authorities may assign to the personnel officers or to other officers and  
838 employees of their agencies such personnel duties as they see fit.

839 Agencies shall establish and maintain rosters of their employees in which shall be set forth, as to  
840 each employee, the class title, pay and status and such other data as they may deem desirable to produce  
841 significant facts pertaining to personnel administration.

842 Agencies shall establish and maintain such promotion and employment lists, rated according to merit  
843 and fitness, as they deem desirable; but such agencies as desire to do so may make use of the  
844 employment list kept by the Department of ~~Personnel and Training~~*Human Resource Management* in lieu  
845 of keeping employment lists for their agencies.

846 Agencies shall supply the Governor with any information he deems necessary for the performance of  
847 his duties in connection with the administration of this chapter.

848 § 2.1-114.7:1. Reporting transfers of personnel; granting reports.

849 A. Whenever a state employee is transferred for a limited period of time from one state agency to  
850 another without transferring appropriations, as may be provided by law, such transfer shall be reported  
851 by the transferring agency to the Department of ~~Personnel and Training~~*Human Resource Management*,  
852 including the name and classification of the employee, the name of the transferring and receiving  
853 agencies and the length of time of transfer. If, at a subsequent time, the length of time is shortened or  
854 extended, a subsequent report of that fact shall also be submitted.

855 B. A consolidated report of all such current transfers and all that have begun and ended within the  
856 preceding three-month period shall be prepared as of the first day of each January, April, July and  
857 October. A copy of each such report shall be submitted to the Chairmen of the House Appropriations  
858 and Senate Finance Committees and the Director of the Department of Planning and Budget no later  
859 than three working days after the effective date of the report.

860 § 2.1-116. Certain officers and employees exempt from chapter.  
 861 The provisions of this chapter shall not apply to:  
 862 1. Officers and employees for whom the Constitution specifically directs the manner of selection;  
 863 2. Officers and employees of the Supreme Court and the Court of Appeals;  
 864 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either  
 865 house thereof is required or not;  
 866 4. Officers elected by popular vote or by the General Assembly or either house thereof;  
 867 5. Members of boards and commissions however selected;  
 868 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
 869 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and  
 870 notaries public;  
 871 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
 872 special inquiries, investigations, or examinations on its behalf;  
 873 8. The presidents, and teaching and research staffs of state educational institutions;  
 874 9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;  
 875 10. Student employees in institutions of learning, and patient or inmate help in other state  
 876 institutions;  
 877 11. Upon general or special authorization of the Governor, laborers, temporary employees and  
 878 employees compensated on an hourly or daily basis;  
 879 12. County, city, town and district officers, deputies, assistants and employees;  
 880 13. The employees of the Virginia Workers' Compensation Commission;  
 881 14. The officers and employees of the Virginia Retirement System;  
 882 15. Employees whose positions are identified by the State Council of Higher Education and the  
 883 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the  
 884 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of  
 885 Natural History and The Library of Virginia, and approved by the Director of the Department of  
 886 ~~Personnel and Training~~ *Human Resource Management* as requiring specialized and professional training;  
 887 16. Employees of the State Lottery Department;  
 888 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;  
 889 18. [Repealed.]  
 890 19. Employees of the Medical College of Virginia Hospitals Authority;  
 891 20. Employees of the University of Virginia Medical Center. Any changes in compensation plans for  
 892 such employees shall be subject to the review and approval of the Board of Visitors of the University of  
 893 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia  
 894 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the  
 895 provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1;  
 896 21. In executive branch agencies the employee who has accepted serving in the capacity of chief  
 897 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential  
 898 assistant for policy or administration. An employee serving in either one of these two positions shall be  
 899 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve  
 900 in this exempt capacity;  
 901 22. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
 902 provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1;  
 903 23. Officers and employees of the Virginia Port Authority;  
 904 24. Employees of the Virginia Higher Education Tuition Trust Fund; and  
 905 25. Directors of state facilities operated by the Department of Mental Health, Mental Retardation and  
 906 Substance Abuse Services employed or reemployed by the Commissioner after July 1, 1999, under a  
 907 contract pursuant to § 37.1-42.2.  
 908 § 2.1-116.03. Director to administer Department; powers and duties.  
 909 The Director shall, under the direction and control of the Governor, administer and supervise the  
 910 Department and shall:  
 911 1. Establish a comprehensive program of employee relations management which includes alternative  
 912 processes for resolving employment disputes;  
 913 2. Establish the grievance procedure and a statewide mediation program;  
 914 3. Promulgate rules and set hearing officer fees for grievance hearings;  
 915 4. For employees who are covered by the grievance procedure, (i) provide forms necessary for the  
 916 proper use of the grievance procedure, (ii) direct full compliance with the grievance procedure process,  
 917 (iii) investigate allegations of retaliation as the result of use of or participation in the grievance  
 918 procedure or of reporting, in good faith, an allegation of fraud, waste or abuse to the State Employee  
 919 Fraud, Waste and Abuse Hotline and advise the agency head of such findings, and (iv) rule on the  
 920 qualification of a grievance or the question of access to the grievance procedure;

921 5. Render final decisions on all matters related to procedural compliance with the grievance  
922 procedure;

923 6. Establish a process to select, on a rotating basis, hearing officers from the list maintained by the  
924 Executive Secretary of the Supreme Court; train and assign such hearing officers to conduct grievance  
925 hearings; and evaluate the quality of their services to determine eligibility for continued selection;

926 7. Establish, in conjunction with the Department of ~~Personnel and Training~~*Human Resource*  
927 *Management*, a training program for human resources personnel on employee relations management and  
928 employment rights and responsibilities;

929 8. Implement a comprehensive training and instructional program for all supervisory personnel which  
930 includes the role of the grievance procedure in harmonious employee relations management. The training  
931 program shall also include methods for supervisors to instruct nonsupervisory personnel in the use of the  
932 grievance procedure. Use of the grievance procedure to resolve disputes shall be encouraged. In-house  
933 resources shall be developed to allow the Department and its personnel to conduct on-site training of  
934 this nature for units and agencies of state government throughout Virginia. The Department shall assist  
935 agencies in establishing performance criteria for such supervisory personnel;

936 9. Provide information upon the request of any employee concerning personnel policies, rules and  
937 regulations, and statutes applicable to the grievance procedure and counsel employees in the resolution  
938 of conflict in the workplace;

939 10. Establish and maintain a toll-free telephone number to facilitate access by employees to the  
940 services of the Department;

941 11. Collect information and statistical data in regard to the use of the grievance procedure and the  
942 effectiveness of employee relations management in the various state agencies;

943 12. Make recommendations to the Governor and the General Assembly to improve the grievance  
944 procedure and employee relations management;

945 13. Exercise such other powers and perform such other duties as may be requested by the Governor;  
946 and

947 14. Perform all acts and employ such personnel as may be required, necessary, or convenient to carry  
948 out the provisions of this chapter.

949 § 2.1-116.07. Hearing officers; duties; decisions; costs.

950 A. The Director shall assign a hearing officer to conduct the grievance hearing. All hearing officers  
951 shall be selected, on a rotating basis, from the list of administrative hearing officers maintained by the  
952 Supreme Court of Virginia pursuant to § 9-6.14:14.1. In addition to the training requirements imposed  
953 by the Supreme Court, each hearing officer shall attend annually at least one day of training in  
954 employment law or state personnel policies and organizations. Such training shall be conducted by the  
955 Department or an organization approved by the Virginia State Bar for continuing legal education.

956 B. Hearing officers shall have the following powers and duties:

957 1. Hold conferences for the settlement or simplification of issues;

958 2. Dispose of procedural requests;

959 3. Issue orders requiring testimony or the production of evidence;

960 4. Administer oaths and affirmations;

961 5. Receive probative evidence; exclude irrelevant, immaterial, insubstantial, privileged, or repetitive  
962 proofs, rebuttals, or cross-examinations; rule upon offers of proof; and oversee an accurate verbatim  
963 recording of the evidence;

964 6. For those issues qualified for a hearing, order appropriate remedies. Relief may include  
965 reinstatement, back pay, full reinstatement of fringe benefits and seniority rights, or any combination of  
966 these remedies; and

967 7. Take other actions as necessary or specified in the grievance procedure.

968 C. The decision of the hearing officer shall (i) be in writing, (ii) contain findings of fact as to the  
969 material issues in the case and the basis for those findings, and (iii) be final and binding if consistent  
970 with law and policy. In grievances initiated by state employees, the Director of the Department of  
971 ~~Personnel and Training~~*Human Resource Management* shall determine whether the decision is consistent  
972 with policy. In grievances arising out of the Department of Mental Health, Mental Retardation and  
973 Substance Abuse Services which challenge allegations of patient abuse, the Director of the Department  
974 of Employee Relations Counselors shall determine whether the decision is consistent with law. The  
975 hearing officer's decision is effective from the date issued and shall be implemented immediately unless  
976 circumstances beyond the control of the agency delay such implementation.

977 D. Either party may petition the circuit court having jurisdiction in the locality in which the  
978 employee is employed for an order requiring implementation of the hearing officer's decision. The court  
979 may award attorneys' fees to either party if such party substantially prevails on the merits of the case  
980 and the opposing party's position is not substantially justified, unless special circumstances would make  
981 an award unjust.

982 E. Except for the employee's counsel or advocate fees, the agency from which the grievance arises

983 shall bear the costs for the hearing officer and other associated hearing expenses.

984 § 2.1-116.14. Duties and powers.

985 The Council shall be charged with the responsibility of monitoring the Commonwealth's equal  
986 employment opportunity practices so as to assure that such practices fulfill the Commonwealth's  
987 obligations of providing equal opportunity to all employees and applicants. The Council may (i) call  
988 upon the Director of ~~Personnel and Training~~*Human Resource Management* and other state officials for  
989 information and reports to assist them in their work; (ii) act as a communications channel for groups  
990 both inside and outside of state government that wish to have their views on equal employment  
991 opportunity expressed to state government; (iii) make recommendations to state agencies concerning the  
992 implementation of their affirmative action plans and programs.

993 The Council members shall refer employees who have work related discrimination complaints to the  
994 Director of Equal Opportunity and Employee Programs. Once the discrimination complaint is referred to  
995 the Director, the matter shall be reviewed in accordance with the Equal Employment Opportunity  
996 Complaint Procedure of the Department of ~~Personnel and Training~~*Human Resource Management*, or at  
997 the employee's option, the State Grievance Procedure. The Committee shall audit and review the  
998 Commonwealth's equal opportunity posture at least once a year and recommend improvements to the  
999 Governor.

1000 The Council shall review the progress of state agency affirmative action plans and programs, and  
1001 make recommendations for changes as warranted.

1002 § 2.1-116.21. Duties of Department and executive branch agencies to involuntarily separated  
1003 employees.

1004 A. Prior to terminating or placing on leave without pay-layoff or equivalent status any employee of  
1005 an agency or institution in the executive branch of government, the management of the agency or  
1006 institution shall make every effort to place the employee in any vacant position within the agency for  
1007 which the employee is qualified. If reemployment within the agency or institution is not possible  
1008 because there is no available position for which the employee is qualified or the position offered to the  
1009 employee requires relocation or a reduction in salary, the name of the employee shall be forwarded to  
1010 the Department of ~~Personnel and Training~~*Human Resource Management*.

1011 B. Any preferential employment rights vested in the employee under the Commonwealth's layoff  
1012 policy shall not be denied, abridged, or modified in any way by the Department of ~~Personnel and~~  
1013 ~~Training~~*Human Resource Management*. The Department shall coordinate the preferential hiring of the  
1014 employee, at the same salary classification, in any agency or institution of the executive branch of  
1015 government. The Department shall also establish a program to assist employees in finding employment  
1016 outside of state government.

1017 C. If, as of the date the employee is terminated from employment or placed on leave without  
1018 pay-layoff or equivalent status, reemployment within his agency or institution or any other agency or  
1019 institution of the executive branch of government is not possible because there is no available position  
1020 for which the employee is qualified or the position offered to the employee requires relocation or a  
1021 reduction in salary, then the employee shall be deemed to be involuntarily separated. If such employee  
1022 is otherwise eligible, he shall be entitled, under the conditions specified, to receive the transitional  
1023 severance benefit conferred by this chapter.

1024 D. The Department of ~~Personnel and Training~~*Human Resource Management* shall report all  
1025 involuntary separations in the executive branch of government to the Department of Planning and  
1026 Budget, which shall make an appropriate reduction, pursuant to § 2.1-391, in the terminating agency's  
1027 maximum employment level in preparing its executive budget for the next session of the General  
1028 Assembly.

1029 § 2.1-342.01. Exclusions to application of chapter.

1030 A. The following records are excluded from the provisions of this chapter but may be disclosed by  
1031 the custodian in his discretion, except where such disclosure is prohibited by law:

1032 1. Confidential records of all investigations of applications for licenses and permits, and all licenses  
1033 and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery  
1034 Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

1035 2. State income, business, and estate tax returns, personal property tax returns, scholastic and  
1036 confidential records held pursuant to § 58.1-3.

1037 3. Scholastic records containing information concerning identifiable individuals, except that such  
1038 access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the  
1039 student. However, no student shall have access to (i) financial records of a parent or guardian or (ii)  
1040 records of instructional, supervisory, and administrative personnel and educational personnel ancillary  
1041 thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed  
1042 to any other person except a substitute.

1043 The parent or legal guardian of a student may prohibit, by written request, the release of any

1044 individual information regarding that student until the student reaches the age of eighteen years. For  
1045 scholastic records of students under the age of eighteen years, the right of access may be asserted only  
1046 by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have  
1047 been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic  
1048 records of students who are emancipated or attending a state-supported institution of higher education,  
1049 the right of access may be asserted by the student.

1050 Any person who is the subject of any scholastic record and who is eighteen years of age or older  
1051 may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the  
1052 public body shall open such records for inspection and copying.

1053 4. Personnel records containing information concerning identifiable individuals, except that access  
1054 shall not be denied to the person who is the subject thereof. Any person who is the subject of any  
1055 personnel record and who is eighteen years of age or older may waive, in writing, the protections  
1056 afforded by this subdivision. If the protections are so waived, the public body shall open such records  
1057 for inspection and copying.

1058 5. Medical and mental records, except that such records may be personally reviewed by the subject  
1059 person or a physician of the subject person's choice. However, the subject person's mental records may  
1060 not be personally reviewed by such person when the subject person's treating physician has made a part  
1061 of such person's records a written statement that in his opinion a review of such records by the subject  
1062 person would be injurious to the subject person's physical or mental health or well-being.

1063 Where the person who is the subject of medical records is confined in a state or local correctional  
1064 facility, the administrator or chief medical officer of such facility may assert such confined person's right  
1065 of access to the medical records if the administrator or chief medical officer has reasonable cause to  
1066 believe that such confined person has an infectious disease or other medical condition from which other  
1067 persons so confined need to be protected. Medical records shall only be reviewed and shall not be  
1068 copied by such administrator or chief medical officer. The information in the medical records of a  
1069 person so confined shall continue to be confidential and shall not be disclosed by the administrator or  
1070 chief medical officer of the facility to any person except the subject or except as provided by law.

1071 For the purposes of this chapter, statistical summaries of incidents and statistical data concerning  
1072 patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental  
1073 Retardation and Substance Abuse Services shall be open to inspection and copying as provided in  
1074 § 2.1-342. No such summaries or data shall include any patient-identifying information. Where the  
1075 person who is the subject of medical and mental records is under the age of eighteen, his right of access  
1076 may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's  
1077 parental rights have been terminated or a court of competent jurisdiction has restricted or denied such  
1078 access. In instances where the person who is the subject thereof is an emancipated minor or a student in  
1079 a public institution of higher education, the right of access may be asserted by the subject person.

1080 6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the  
1081 Attorney General; the members of the General Assembly or the Division of Legislative Services; the  
1082 mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or  
1083 other chief executive officer of any public institution of higher education. However, no record which is  
1084 otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has  
1085 been attached to or incorporated within any working paper or correspondence.

1086 As used in this subdivision:

1087 "Working papers" means those records prepared by or for an above-named public official for his  
1088 personal or deliberative use.

1089 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet  
1090 Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor  
1091 has delegated his authority pursuant to § 2.1-39.1.

1092 7. Written advice of the county, city and town attorneys to their local government clients and any  
1093 other records protected by the attorney-client privilege.

1094 8. Legal memoranda and other work product compiled specifically for use in litigation or for use in  
1095 an active administrative investigation concerning a matter which is properly the subject of a closed  
1096 meeting under § 2.1-344.

1097 9. Confidential letters and statements of recommendation placed in the records of educational  
1098 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an  
1099 application for employment, or (iii) receipt of an honor or honorary recognition.

1100 10. Library records which can be used to identify both (i) any library patron who has borrowed  
1101 material from a library and (ii) the material such patron borrowed.

1102 11. Any test or examination used, administered or prepared by any public body for purposes of  
1103 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's  
1104 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license  
1105 or certificate issued by a public body.

1106 As used in this subdivision, "test or examination" shall include (i) any scoring key for any such test  
1107 or examination and (ii) any other document which would jeopardize the security of the test or  
1108 examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as  
1109 provided by law, or limit access to individual records as provided by law. However, the subject of such  
1110 employment tests shall be entitled to review and inspect all records relative to his performance on such  
1111 employment tests.

1112 When, in the reasonable opinion of such public body, any such test or examination no longer has any  
1113 potential for future use, and the security of future tests or examinations will not be jeopardized, the test  
1114 or examination shall be made available to the public. However, minimum competency tests administered  
1115 to public school children shall be made available to the public contemporaneously with statewide release  
1116 of the scores of those taking such tests, but in no event shall such tests be made available to the public  
1117 later than six months after the administration of such tests.

1118 12. Applications for admission to examinations or for licensure and scoring records maintained by  
1119 the Department of Health Professions or any board in that department on individual licensees or  
1120 applicants. However, such material may be made available during normal working hours for copying, at  
1121 the requester's expense, by the individual who is the subject thereof, in the offices of the Department of  
1122 Health Professions or in the offices of any health regulatory board, whichever may possess the material.

1123 13. Records of active investigations being conducted by the Department of Health Professions or by  
1124 any health regulatory board in the Commonwealth.

1125 14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to  
1126 § 2.1-344. However, no record which is otherwise open to inspection under this chapter shall be deemed  
1127 exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

1128 15. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

1129 16. Proprietary information gathered by or for the Virginia Port Authority as provided in  
1130 § 62.1-132.4 or § 62.1-134.1.

1131 17. Contract cost estimates prepared for the confidential use of the Department of Transportation in  
1132 awarding contracts for construction or the purchase of goods or services, and records and automated  
1133 systems prepared for the Department's Bid Analysis and Monitoring Program.

1134 18. Vendor proprietary information software which may be in the official records of a public body.  
1135 For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired  
1136 from a vendor for purposes of processing data for agencies or political subdivisions of the  
1137 Commonwealth.

1138 19. Financial statements not publicly available filed with applications for industrial development  
1139 financings.

1140 20. Data, records or information of a proprietary nature produced or collected by or for faculty or  
1141 staff of public institutions of higher education, other than the institutions' financial or administrative  
1142 records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly  
1143 issues, whether sponsored by the institution alone or in conjunction with a governmental body or a  
1144 private concern, where such data, records or information has not been publicly released, published,  
1145 copyrighted or patented.

1146 21. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,  
1147 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by  
1148 the political subdivision.

1149 22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise  
1150 of confidentiality from the Department of Business Assistance, the Virginia Economic Development  
1151 Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development  
1152 authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for  
1153 business, trade and tourism development; and memoranda, working papers or other records related to  
1154 businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where  
1155 competition or bargaining is involved and where, if such records are made public, the financial interest  
1156 of the governmental unit would be adversely affected.

1157 23. Information which was filed as confidential under the Toxic Substances Information Act  
1158 (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

1159 24. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis  
1160 center or a program for battered spouses.

1161 25. Computer software developed by or for a state agency, state-supported institution of higher  
1162 education or political subdivision of the Commonwealth.

1163 26. Investigator notes, and other correspondence and information, furnished in confidence with  
1164 respect to an active investigation of individual employment discrimination complaints made to the  
1165 Department of ~~Personnel and Training~~ *Human Resource Management*. However, nothing in this section  
1166 shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal

1167 the identity of charging parties, persons supplying the information or other individuals involved in the  
1168 investigation.

1169 27. Fisheries data which would permit identification of any person or vessel, except when required  
1170 by court order as specified in § 28.2-204.

1171 28. Records of active investigations being conducted by the Department of Medical Assistance  
1172 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

1173 29. Records and writings furnished by a member of the General Assembly to a meeting of a standing  
1174 committee, special committee or subcommittee of his house established solely for the purpose of  
1175 reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of  
1176 formulating advisory opinions to members on standards of conduct, or both.

1177 30. Customer account information of a public utility affiliated with a political subdivision of the  
1178 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
1179 service provided and the amount of money paid for such utility service.

1180 31. Investigative notes and other correspondence and information furnished in confidence with  
1181 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice  
1182 under the Virginia Human Rights Act (§ 2.1-714 et seq.). However, nothing in this section shall prohibit  
1183 the distribution of information taken from inactive reports in a form which does not reveal the identity  
1184 of the parties involved or other persons supplying information.

1185 32. Investigative notes; proprietary information not published, copyrighted or patented; information  
1186 obtained from employee personnel records; personally identifiable information regarding residents,  
1187 clients or other recipients of services; and other correspondence and information furnished in confidence  
1188 to the Department of Social Services in connection with an active investigation of an applicant or  
1189 licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1. However,  
1190 nothing in this section shall prohibit disclosure of information from the records of completed  
1191 investigations in a form that does not reveal the identity of complainants, persons supplying information,  
1192 or other individuals involved in the investigation.

1193 33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development  
1194 Authority concerning individuals who have applied for or received loans or other housing assistance or  
1195 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by  
1196 the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the  
1197 waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and  
1198 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the  
1199 waiting list for housing assistance programs funded by local governments or by any such authority.  
1200 However, access to one's own information shall not be denied.

1201 34. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if  
1202 disclosure of them would have a detrimental effect upon the negotiating position of a governing body or  
1203 on the establishment of the terms, conditions and provisions of the siting agreement.

1204 35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior  
1205 to the completion of such purchase, sale or lease.

1206 36. Records containing information on the site specific location of rare, threatened, endangered or  
1207 otherwise imperiled plant and animal species, natural communities, caves, and significant historic and  
1208 archaeological sites if, in the opinion of the public body which has the responsibility for such  
1209 information, disclosure of the information would jeopardize the continued existence or the integrity of  
1210 the resource. This exemption shall not apply to requests from the owner of the land upon which the  
1211 resource is located.

1212 37. Records, memoranda, working papers, graphics, video or audio tapes, production models, data  
1213 and information of a proprietary nature produced by or for or collected by or for the State Lottery  
1214 Department relating to matters of a specific lottery game design, development, production, operation,  
1215 ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to  
1216 holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning,  
1217 advertising, or marketing, where such official records have not been publicly released, published,  
1218 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall  
1219 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game  
1220 to which it pertains.

1221 38. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii)  
1222 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or  
1223 regulations which cause abuses in the administration and operation of the lottery and any evasions of  
1224 such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling  
1225 where such official records have not been publicly released, published or copyrighted. All studies and  
1226 investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon  
1227 completion of the study or investigation.

1228 39. Those portions of engineering and construction drawings and plans submitted for the sole purpose

1229 of complying with the Building Code in obtaining a building permit which would identify specific trade  
 1230 secrets or other information the disclosure of which would be harmful to the competitive position of the  
 1231 owner or lessee. However, such information shall be exempt only until the building is completed.  
 1232 Information relating to the safety or environmental soundness of any building shall not be exempt from  
 1233 disclosure.

1234 40. Records concerning reserves established in specific claims administered by the Department of  
 1235 General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et  
 1236 seq.) of Chapter 32 of this title, or by any county, city, or town.

1237 41. Information and records collected for the designation and verification of trauma centers and other  
 1238 specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to  
 1239 Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

1240 42. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

1241 43. Investigative notes, correspondence and information furnished in confidence, and records  
 1242 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i)  
 1243 Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the  
 1244 State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste  
 1245 and Abuse Hotline; or (iv) the committee or the auditor with respect to an investigation or audit  
 1246 conducted pursuant to § 15.2-825. Records of completed investigations shall be disclosed in a form that  
 1247 does not reveal the identity of the complainants or persons supplying information to investigators.  
 1248 Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to,  
 1249 the agency involved, the identity of the person who is the subject of the complaint, the nature of the  
 1250 complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective  
 1251 action, the identity of the person who is the subject of the complaint may be released only with the  
 1252 consent of the subject person.

1253 44. Data formerly required to be submitted to the Commissioner of Health relating to the  
 1254 establishment of new or the expansion of existing clinical health services, acquisition of major medical  
 1255 equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

1256 45. Documentation or other information which describes the design, function, operation or access  
 1257 control features of any security system, whether manual or automated, which is used to control access to  
 1258 or use of any automated data processing or telecommunications system.

1259 46. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections  
 1260 provided to the Department of Rail and Public Transportation, provided such information is exempt  
 1261 under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws  
 1262 administered by the Surface Transportation Board or the Federal Railroad Administration with respect to  
 1263 data provided in confidence to the Surface Transportation Board and the Federal Railroad  
 1264 Administration.

1265 47. In the case of corporations organized by the Virginia Retirement System (i) proprietary  
 1266 information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or  
 1267 investors and (ii) records concerning the condition, acquisition, disposition, use, leasing, development,  
 1268 coventuring, or management of real estate, the disclosure of which would have a substantial adverse  
 1269 impact on the value of such real estate or result in a competitive disadvantage to the corporation or  
 1270 subsidiary.

1271 48. Confidential proprietary records related to inventory and sales, voluntarily provided by private  
 1272 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy  
 1273 contingency planning purposes or for developing consolidated statistical information on energy supplies.

1274 49. Confidential proprietary information furnished to the Board of Medical Assistance Services or the  
 1275 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of  
 1276 Chapter 10 of Title 32.1.

1277 50. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and  
 1278 cost projections provided by a private transportation business to the Virginia Department of  
 1279 Transportation and the Department of Rail and Public Transportation for the purpose of conducting  
 1280 transportation studies needed to obtain grants or other financial assistance under the Transportation  
 1281 Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is  
 1282 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other  
 1283 laws administered by the Surface Transportation Board or the Federal Railroad Administration with  
 1284 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad  
 1285 Administration. However, the exemption provided by this subdivision shall not apply to any wholly  
 1286 owned subsidiary of a public body.

1287 51. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department  
 1288 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the  
 1289 Department not release such information.

- 1290 52. Information required to be provided pursuant to § 54.1-2506.1.
- 1291 53. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or  
1292 proprietary information by any person who has submitted to a public body an application for  
1293 prequalification to bid on public construction projects in accordance with subsection B of § 11-46.
- 1294 54. All information and records acquired during a review of any child death by the State Child  
1295 Fatality Review team established pursuant to § 32.1-283.1, during a review of any child death by a local  
1296 or regional child fatality review team established pursuant to § 32.1-283.2, and all information and  
1297 records acquired during a review of any death by a family violence fatality review team established  
1298 pursuant to § 32.1-283.3.
- 1299 55. Financial, medical, rehabilitative and other personal information concerning applicants for or  
1300 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority  
1301 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.
- 1302 56. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a  
1303 proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et  
1304 seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible  
1305 public entity for purposes related to the development of a qualifying transportation facility; and  
1306 memoranda, working papers or other records related to proposals filed under the Public-Private  
1307 Transportation Act of 1995, where, if such records were made public, the financial interest of the public  
1308 or private entity involved with such proposal or the process of competition or bargaining would be  
1309 adversely affected. In order for confidential proprietary information to be excluded from the provisions  
1310 of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other  
1311 materials for which protection from disclosure is sought, (ii) identify the data or other materials for  
1312 which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of  
1313 this subdivision, the terms "public entity" and "private entity" shall be defined as they are defined in the  
1314 Public-Private Transportation Act of 1995.
- 1315 57. Records of law-enforcement agencies, to the extent that such records contain specific tactical  
1316 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or  
1317 the general public; or records of emergency service agencies to the extent that such records contain  
1318 specific tactical plans relating to antiterrorist activity.
- 1319 58. All records of the University of Virginia or the University of Virginia Medical Center which  
1320 contain proprietary, business-related information pertaining to the operations of the University of  
1321 Virginia Medical Center, including its business development or marketing strategies and its activities  
1322 with existing or future joint venturers, partners, or other parties with whom the University of Virginia  
1323 Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of  
1324 such information would be harmful to the competitive position of the Medical Center.
- 1325 59. Patient level data collected by the Board of Health and not yet processed, verified, and released,  
1326 pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of  
1327 Health has contracted pursuant to § 32.1-276.4.
- 1328 60. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the  
1329 following: an individual's qualifications for or continued membership on its medical or teaching staffs;  
1330 proprietary information gathered by or in the possession of the Authority from third parties pursuant to a  
1331 promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for  
1332 construction or the purchase of goods or services; data, records or information of a proprietary nature  
1333 produced or collected by or for the Authority or members of its medical or teaching staffs; financial  
1334 statements not publicly available that may be filed with the Authority from third parties; the identity,  
1335 accounts or account status of any customer of the Authority; consulting or other reports paid for by the  
1336 Authority to assist the Authority in connection with its strategic planning and goals; and the  
1337 determination of marketing and operational strategies where disclosure of such strategies would be  
1338 harmful to the competitive position of the Authority; and data, records or information of a proprietary  
1339 nature produced or collected by or for employees of the Authority, other than the Authority's financial  
1340 or administrative records, in the conduct of or as a result of study or research on medical, scientific,  
1341 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a  
1342 governmental body or a private concern, when such data, records or information have not been publicly  
1343 released, published, copyrighted or patented.
- 1344 61. Confidential proprietary information or trade secrets, not publicly available, provided by a private  
1345 person or entity to the Virginia Resources Authority or to a fund administered in connection with  
1346 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such  
1347 information were made public, the financial interest of the private person or entity would be adversely  
1348 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of  
1349 confidentiality.
- 1350 62. Confidential proprietary records which are provided by a franchisee under § 15.2-2108 to its  
1351 franchising authority pursuant to a promise of confidentiality from the franchising authority which

1352 relates to the franchisee's potential provision of new services, adoption of new technologies or  
 1353 implementation of improvements, where such new services, technologies or improvements have not been  
 1354 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such  
 1355 records were made public, the competitive advantage or financial interests of the franchisee would be  
 1356 adversely affected. In order for confidential proprietary information to be excluded from the provisions  
 1357 of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other  
 1358 materials for which protection from disclosure is sought, (ii) identify the data or other materials for  
 1359 which protection is sought, and (iii) state the reason why protection is necessary.

1360 63. Records of the Intervention Program Committee within the Department of Health Professions, to  
 1361 the extent such records may identify any practitioner who may be, or who is actually, impaired to the  
 1362 extent disclosure is prohibited by § 54.1-2517.

1363 64. Records submitted as a grant application, or accompanying a grant application, to the  
 1364 Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of  
 1365 Chapter 2 of Title 32.1, to the extent such records contain (i) medical or mental records, or other data  
 1366 identifying individual patients or (ii) proprietary business or research-related information produced or  
 1367 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,  
 1368 scientific, technical or scholarly issues, when such information has not been publicly released, published,  
 1369 copyrighted or patented, if the disclosure of such information would be harmful to the competitive  
 1370 position of the applicant.

1371 65. Information which would disclose the security aspects of a system safety program plan adopted  
 1372 pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety  
 1373 Oversight agency; and information in the possession of such agency, the release of which would  
 1374 jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway  
 1375 safety.

1376 66. Documents and other information of a proprietary nature furnished by a supplier of charitable  
 1377 gaming supplies to the Charitable Gaming Commission pursuant to subsection E of § 18.2-340.34.

1378 67. Personal information, as defined in § 2.1-379, provided to the Board of the Virginia Higher  
 1379 Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested  
 1380 information about, applied for, or entered into prepaid tuition contracts or savings trust account  
 1381 agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be  
 1382 construed to prohibit disclosure or publication of information in a statistical or other form which does  
 1383 not identify individuals or provide personal information. Individuals shall be provided access to their  
 1384 own personal information.

1385 68. Any record copied, recorded or received by the Commissioner of Health in the course of an  
 1386 examination, investigation or review of a managed care health insurance plan licensee pursuant to  
 1387 §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or  
 1388 all computer or other recordings.

1389 69. Engineering and architectural drawings, operational, procedural, tactical planning or training  
 1390 manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance  
 1391 techniques, personnel deployments, alarm systems or technologies, or operational and transportation  
 1392 plans or protocols, to the extent such disclosure would jeopardize the security or employee safety of (i)  
 1393 the Virginia Museum of Fine Arts or any of its warehouses; (ii) any government store or warehouse  
 1394 controlled by the Department of Alcoholic Beverage Control; (iii) any courthouse, jail, detention or  
 1395 law-enforcement facility; or (iv) any correctional or juvenile facility or institution under the supervision  
 1396 of the Department of Corrections or the Department of Juvenile Justice.

1397 70. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple  
 1398 Board pursuant to §§ 3.1-622 and 3.1-624.

1399 B. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this  
 1400 title shall be construed as denying public access to (i) contracts between a public official and a public  
 1401 body, other than contracts settling public employee employment disputes held confidential as personnel  
 1402 records under subdivision 4 of subsection A; (ii) records of the position, job classification, official salary  
 1403 or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer,  
 1404 official or employee of a public body; or (iii) the compensation or benefits paid by any corporation  
 1405 organized by the Virginia Retirement System or its officers or employees. The provisions of this  
 1406 subsection, however, shall not require public access to records of the official salaries or rates of pay of  
 1407 public employees whose annual rate of pay is \$10,000 or less.

1408 C. No provision of this chapter shall be construed to afford any rights to any person incarcerated in a  
 1409 state, local or federal correctional facility, whether or not such facility is (i) located in the  
 1410 Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et  
 1411 seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising  
 1412 his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his

1413 favor in a criminal prosecution.

1414 § 2.1-404. Submission of additional information to legislative committees.

1415 To enable the House of Delegates Committee on Appropriations and the Senate Committee on  
1416 Finance to fully carry out their prescribed duties, all departments, agencies and institutions of the  
1417 Commonwealth, their staff and employees shall, upon request, provide such committees with any  
1418 additional information, as may be deemed necessary, and allow such committees ample opportunity to  
1419 physically observe the department's, agency's or institution's daily operations. The Department of  
1420 ~~Personnel and Training~~ *Human Resource Management* shall present a report, submitted on or before  
1421 September 30 of each year, of the number of employees who voluntarily and involuntarily terminated  
1422 their employment with each department, agency, or institution in the previous fiscal year.

1423 § 2.1-557. Responsibilities of departments.

1424 Each department utilizing the services of volunteers shall:

1425 1. Take such actions as are necessary and appropriate to develop meaningful opportunities for  
1426 volunteers involved in its programs and to improve public services;

1427 2. Develop written rules governing the recruitment, screening, training, responsibility, utilization and  
1428 supervision of volunteers;

1429 3. Take such actions as are necessary to ensure that volunteers and paid staff understand their  
1430 respective duties and responsibilities, their relationship to each other, and their respective roles in  
1431 fulfilling the objectives of their department;

1432 4. Take such actions as are necessary and appropriate to ensure a receptive climate for citizen  
1433 volunteers;

1434 5. Provide for the recognition of volunteers who have offered exceptional service to the  
1435 Commonwealth; and

1436 6. Recognize prior volunteer service as partial fulfillment of state employment requirements for  
1437 training and experience established by the Department of ~~Personnel and Training~~ *Human Resource*  
1438 *Management*.

1439 § 15.2-1512.1. Disposition of property received by subdivisions as result of conversion of mutual  
1440 insurance company to stock corporation.

1441 The governing body of each locality that receives cash, shares of stock, or both, as a result of the  
1442 conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield  
1443 (hereafter referred to as "Trigon"), from a mutual insurance company to a stock corporation known as  
1444 Trigon Healthcare, Inc., by reason of its school division's status as a present or former group  
1445 policyholder of Trigon shall, by appropriate ordinance or resolution, authorize the treasurer of such  
1446 locality to create two separate funds upon the books of the locality, as hereinafter described. Upon the  
1447 enactment or adoption of such ordinance or resolution, the treasurer of the locality shall place all such  
1448 stock, including any proceeds derived from the sale or other conveyance of any such stock, and cash,  
1449 into these separate funds. The stock or proceeds and cash shall be divided equally between the two  
1450 separate funds set forth in subsections A and B of this section; however, (i) the local governing body  
1451 may place a greater proportion or all of the stock or proceeds and cash in the fund described in  
1452 subsection A, with the consent of the school board and (ii) if on or before January 1, 1997, a school  
1453 board has requested and the local governing body has approved the allocation of the proceeds from the  
1454 sale of its stock for a school construction or renovation project, the remainder of such proceeds shall be  
1455 used to create a fund to offset health insurance premium increases incurred by the present and future  
1456 employees of the school board and governing body.

1457 A. The first fund shall be known as the "County/City of \_\_\_\_\_ Schools Health  
1458 Insurance Premium Fund." All principal placed into this fund, together with all income arising from or  
1459 attributable to the fund, shall be used solely to offset health insurance premium expenses incurred by or  
1460 on behalf of present and future employees of the school division of the locality; however, the governing  
1461 body of the locality may use a portion of the principal placed into the fund, a portion of the income  
1462 arising from or attributable to the fund, or both, to compensate present or future retired employees of  
1463 the school division of the locality for (i) health insurance premium expenses payable by the retired  
1464 employees, (ii) health insurance premium expenses paid for by such retired employees for periods prior  
1465 to July 1, 1997, during which the retired employees were insured under a health insurance policy  
1466 through the school division of the locality as a group policyholder of Trigon, or (iii) both (i) and (ii), in  
1467 such amounts, if any, as the governing body shall determine appropriate. No disbursement from the fund  
1468 may be made except upon specific appropriation by the governing body in accordance with applicable  
1469 law.

1470 B. The second fund, if any, shall be known as the "County/City of \_\_\_\_\_ School  
1471 Construction, Renovation, Maintenance, Capital Outlay, and Debt Service Fund." All principal placed  
1472 into this fund, together with all income arising from or attributable to the fund, shall be used solely for  
1473 the purposes of school construction, school renovation, major school maintenance, capital outlay, and  
1474 debt service in the public schools of the locality. No disbursement from this fund may be made except

1475 upon specific appropriation by the governing body in accordance with applicable law.

1476 C. All stock or proceeds and cash placed into separate funds pursuant to the provisions of this act,  
 1477 including all income arising from or attributable to such funds, shall be deemed public funds of the  
 1478 locality and shall be subject to all limitations upon deposit and investment provided by general law,  
 1479 including without limitation the Virginia Security for Public Deposits Act (§ 2.1-359 et seq.). Income,  
 1480 dividends, distributions and sale proceeds accruing to the separate funds shall be retained in the funds  
 1481 and may be expended only in accordance with the terms of this act.

1482 D. Any funds transferred by the Department of ~~Personnel and Training~~ *Human Resource Management*  
 1483 to a participating employer upon its withdrawal from a plan or plans as provided in subsection F of  
 1484 § 2.1-20.1:02 of the Code of Virginia shall be (i) placed in the separate funds described in subsections A  
 1485 and B of this section if the withdrawing employer is a school board or school division or (ii) deposited  
 1486 in the general fund of the locality if the withdrawing employer is not a school board or school division.

1487 § 15.2-1609.2. Sheriffs' salaries; salaries of certain full-time deputies; maximum limits.

1488 A. The sheriffs of the counties and the cities of the Commonwealth and their full-time deputies shall  
 1489 be paid salaries for their services and allowances for the necessary expenses incurred in the performance  
 1490 of their duties, to be determined as hereinafter provided.

1491 B. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as  
 1492 prescribed in the general appropriation act, except as otherwise provided in subsection C.

1493 C. Any sheriff whose salary in the year ending June 30, 1980, included an increase under deleted  
 1494 provisions of former § 14.1-74 shall receive the same amount of such increase for the terms in which he  
 1495 continues in office.

1496 D. The annual salary of each full-time deputy sheriff who is primarily a courtroom security officer, a  
 1497 correctional officer or a law-enforcement officer shall be determined by the sheriff in whose service he  
 1498 is employed and shall be reported to the Compensation Board by the sheriff at the time he files his  
 1499 report for the allowance of the expenses of his office as provided in § 15.2-1636.7 and at any time  
 1500 thereafter when the sheriff effects a change in the salary or employs a new such deputy sheriff. Such  
 1501 salaries as determined by the respective sheriff shall conform to the requirements set forth in subsection  
 1502 E and shall not in the aggregate exceed the aggregate allowance by the Compensation Board for  
 1503 personal services to the respective sheriffs for such deputy sheriffs.

1504 However, notwithstanding any contrary provisions of this section and of § 15.2-1636.8, the salary of  
 1505 any full-time deputy sheriff who, in addition to having primary duties related to courtroom security,  
 1506 corrections or law enforcement, also supervises other deputy sheriffs, or who is designated an  
 1507 investigator by the sheriff in whose services he is employed, shall be fixed and determined by the  
 1508 Compensation Board. Nothing in this section shall prohibit the Compensation Board from setting salary  
 1509 levels of civil process officers in localities having a population of more than one hundred thousand at a  
 1510 level equal to salary levels of deputy sheriffs who are primarily courtroom security, correctional, or  
 1511 law-enforcement officers.

1512 E. The salary range of any full-time deputy sheriff who is primarily a courtroom security officer, a  
 1513 correctional officer or a law-enforcement officer and, if employed on or after July 1, 1974, also has a  
 1514 high school education or the equivalent thereof, shall be no less than that of a correctional officer within  
 1515 the classification and pay system for state employees and shall be administered in accordance with  
 1516 regulations for that system administered by the Department of ~~Personnel and Training~~ *Human Resource*  
 1517 *Management*. The Governor shall provide the Compensation Board the salary range and regulations  
 1518 within that system as of July 1, 1980, and as of any subsequent date on which changes in the salary  
 1519 ranges and regulations may be adopted.

1520 F. The salary of any deputy sheriff shall not exceed ninety percent of the salary of the sheriff by  
 1521 whom he is employed.

1522 § 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and  
 1523 state agencies and institutions.

1524 The Board of Education shall prepare and supervise the implementation in the regional detention  
 1525 homes and those local detention homes having teachers whose salaries were being funded by the  
 1526 Commonwealth on January 1, 1984, a program designed to educate and train the children detained in the  
 1527 homes. In addition, the Board shall supervise those programs of evaluation, education and training  
 1528 provided to school-age children by the Department of Health, the Department of Mental Health, Mental  
 1529 Retardation and Substance Abuse Services, the children's teaching hospital associated with the Medical  
 1530 College of Hampton Roads, the Medical College of Virginia Hospitals, and the University of Virginia  
 1531 Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

1532 The Board shall promulgate such rules and regulations as may be necessary to conform these  
 1533 programs with the applicable federal and state laws and regulations including, but not limited to,  
 1534 teacher-student ratios and special education requirements for children with disabilities. The education  
 1535 programs in the relevant detention homes and state agencies and institutions shall be approved by the

1536 Board and the Board shall prepare a budget for these educational programs which shall be solely  
1537 supported by such general funds as are appropriated by the General Assembly for this purpose.

1538 The Board of Education shall enter into contracts with the relevant state agency or institution or  
1539 detention facility or the local school divisions in which the state agencies or institutions or the regional  
1540 detention homes and the relevant local detention homes are located for the hiring and supervision of  
1541 teachers.

1542 In any case in which the Board enters into a contract with the relevant state agency or institution, the  
1543 Department of ~~Personnel and Training~~ *Human Resource Management* shall establish salary schedules for  
1544 the teachers which are competitive with those in effect for the school divisions in which the agency or  
1545 institution is located.

1546 § 22.1-342.1. Compensation of teachers in the schools of correctional centers.

1547 In any case in which the Board employs a teacher licensed by the Board of Education to provide  
1548 instruction in the schools of the correctional centers, the Department of ~~Personnel and Training~~ *Human  
1549 Resource Management* shall establish salary schedules for the teachers which endeavor to be competitive  
1550 with those in effect for the school division in which the correctional center is located.

1551 § 23-50.16:24. Employees of the Authority.

1552 A. Until July 1, 2001, employees of the Authority shall be considered employees of the  
1553 Commonwealth. Employees of the Authority shall be employed on such terms and conditions as  
1554 established by the Authority. The Board of Directors of the Authority shall develop and adopt policies  
1555 and procedures that will afford its employees grievance rights, ensure that employment decisions shall be  
1556 based upon the merit and fitness of applicants and shall prohibit discrimination because of race, religion,  
1557 color, sex or national origin. Any grievance procedure adopted by the Board other than that contained in  
1558 Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1 shall take effect no earlier than July 1, 1997; however,  
1559 such grievance procedure shall not take effect unless the Authority delivers copies of such grievance  
1560 procedure to the chairmen of the House Committee on Appropriations and the Senate Committee on  
1561 Finance on or before January 1, 1997.

1562 B. The Authority shall issue a written notice to all persons whose employment will be transferred to  
1563 the Authority. The date upon which such written notice is issued shall be referred to herein as the  
1564 "Option Date." Each person whose employment will be transferred to the Authority may, by written  
1565 request made within 180 days of the Option Date, elect not to become employed by the Authority. Any  
1566 employee of the Medical College of Virginia Hospitals who: (i) elects not to become employed by the  
1567 Authority and who is not reemployed by any department, institution, board, commission or agency of  
1568 the Commonwealth; (ii) is not offered the opportunity to transfer to employment by the Authority; or  
1569 (iii) is not offered a position with the Authority for which the employee is qualified or is offered a  
1570 position that requires relocation or a reduction in salary, shall be eligible for the severance benefits  
1571 conferred by the provisions of the Workforce Transition Act (§ 2.1-116.20 et seq.). Any employee who  
1572 accepts employment with the Authority shall not be considered to be involuntarily separated from state  
1573 employment and shall not be eligible for the severance benefits conferred by the provisions of the  
1574 Workforce Transition Act.

1575 C. Without limiting its power generally with respect to employees, the Authority may employ any  
1576 person employed by the University in the operation of the hospital facilities and may assume obligations  
1577 under any employment agreement for such person and the University may assign any such contract to  
1578 the Authority.

1579 D. The Authority and the University may also enter into agreements providing for the purchase of  
1580 services of employees of the University utilized in the operation of the hospital facilities by payment of  
1581 such amounts as may be agreed upon to cover all or part of the salaries and other costs of such  
1582 employees.

1583 E. Notwithstanding any other provision of law to the contrary, any person whose employment is  
1584 transferred to the Authority as a result of this chapter and who is a member of any plan for providing  
1585 health insurance coverage pursuant to Chapter 2 (§ 2.1-11.1 et seq.) of Title 2.1, shall continue to be a  
1586 member of such health insurance plan under the same terms and conditions as if no transfer had  
1587 occurred. Notwithstanding subdivision A 2 of § 2.1-20.1, the costs of providing health insurance  
1588 coverage to such employees who elect to continue to be members of the state employees' health  
1589 insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a  
1590 member of any health insurance plan established by the Authority. The Authority is authorized to (i)  
1591 establish a health insurance plan for the benefit of its employees, residents and interns and (ii) enter into  
1592 agreements with the Department of ~~Personnel and Training~~ *Human Resource Management* providing for  
1593 the coverage of its employees, interns and residents under the state employees' health insurance plan,  
1594 provided that such agreement shall require the Authority to pay the costs of providing health insurance  
1595 coverage under such plan.

1596 F. Notwithstanding any other provision of law to the contrary, any person whose employment is  
1597 transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement

1598 System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title  
1599 51.1, shall continue to be a member of the Virginia Retirement System or other such authorized  
1600 retirement plan under the same terms and conditions as if no transfer had occurred. Alternatively, such  
1601 employee (and any employee employed by the Authority between July 1, 1997, and June 30, 1998, who  
1602 elected to be covered by the Virginia Retirement System) may elect, during an open enrollment period  
1603 from April 1, 2001, through April 30, 2001, to become a member of the retirement program established  
1604 by the Authority for the benefit of its employees pursuant to § 23-50.16:24.1 by transferring assets equal  
1605 to the actuarially determined present value of the accrued basic benefit as of the transfer date. The  
1606 Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services  
1607 necessary to determine the present value of the accrued basic benefit of employees who elect to transfer  
1608 to the Authority's retirement plan. The following rules shall apply:

1609 1. With respect to any transferred employee who elects to remain a member of the Virginia  
1610 Retirement System or other such authorized retirement plan, the Authority shall collect and pay all  
1611 employee and employer contributions to the Virginia Retirement System or other such authorized  
1612 retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of  
1613 Title 51.1 for such transferred employees.

1614 2. Transferred employees who elect to become members of the retirement program established by the  
1615 Authority for the benefit of its employees shall be given full credit for their creditable service as defined  
1616 in § 51.1-124.3, vesting and benefit accrual under the retirement program established by the Authority.  
1617 For any such employee, employment with the Authority shall be treated as employment with any  
1618 nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as  
1619 authorized by Article 4 of Chapter 1 of Title 51.1.

1620 3. For transferred employees who elect to become members of the retirement program established by  
1621 the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the  
1622 retirement plan established by the Authority assets equal to the actuarially determined present value of  
1623 the accrued basic benefit as of the transfer date. For purposes hereof, the basic benefits shall be the  
1624 benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on  
1625 creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the  
1626 transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial  
1627 factors and assumptions used in determining the funding needs of the Virginia Retirement System or  
1628 other such authorized retirement plan, so that the transfer of assets to the retirement plan established by  
1629 the Authority will have no effect on the funded status and financial stability of the Virginia Retirement  
1630 System or other such authorized retirement plan.

1631 § 32.1-137.6. Complaint system.

1632 A. Each managed care health insurance plan licensee subject to § 32.1-137.2 shall establish and  
1633 maintain for each of its managed care health insurance plans a complaint system approved by the  
1634 Commissioner and the Bureau of Insurance to provide reasonable procedures for the resolution of  
1635 written complaints in accordance with the requirements established under this article and Title 38.2, and  
1636 shall include the following:

1637 1. A record of the complaints shall be maintained for the period set forth in § 32.1-137.16 for review  
1638 by the Commissioner.

1639 2. Each managed care health insurance plan licensee shall provide complaint forms and/or written  
1640 procedures to be given to covered persons who wish to register written complaints. Such forms or  
1641 procedures shall include the address and telephone number of the managed care licensee to which  
1642 complaints shall be directed and the mailing address, telephone number, and the electronic mail address  
1643 of the Managed Care Ombudsman established pursuant to § 38.2-5904 and shall also specify any  
1644 required limits imposed by or on behalf of the managed care health insurance plan. Such forms and  
1645 written procedures shall include a clear and understandable description of the covered person's right to  
1646 appeal adverse decisions pursuant to § 32.1-137.15.

1647 B. The Commissioner, in cooperation with the Bureau of Insurance, shall examine the complaint  
1648 system. The effectiveness of the complaint system of the managed care health insurance plan licensee in  
1649 allowing covered persons, or their duly authorized representatives, to have issues regarding quality of  
1650 care appropriately resolved under this article shall be assessed by the State Health Commissioner under  
1651 this article. Compliance by the health carrier and its managed care health insurance plans with the terms  
1652 and procedures of the complaint system, as well as the provisions of Title 38.2, shall be assessed by the  
1653 Bureau of Insurance.

1654 C. As part of the renewal of a certificate, each managed care health insurance plan licensee shall  
1655 submit to the Commissioner and to the Managed Care Ombudsman an annual complaint report in a form  
1656 agreed and prescribed by the Board and the Bureau of Insurance. The complaint report shall include, but  
1657 shall not be limited to (i) a description of the procedures of the complaint system, (ii) the total number  
1658 of complaints handled through the complaint system, (iii) the disposition of the complaints, (iv) a

1659 compilation of the nature and causes underlying the complaints filed, (v) the time it took to process and  
1660 resolve each complaint, and (vi) the number, amount, and disposition of malpractice claims adjudicated  
1661 during the year with respect to any of the managed care health insurance plan's health care providers.

1662 The Department of ~~Personnel and Training~~*Human Resource Management* and the Department of  
1663 Medical Assistance Services shall file similar periodic reports with the Commissioner, in a form  
1664 prescribed by the Board, providing appropriate information on all complaints received concerning quality  
1665 of care and utilization review under their respective health benefits program and managed care health  
1666 insurance plan licensee contractors.

1667 D. The Commissioner shall examine the complaint system under subsection B for compliance of the  
1668 complaint system with respect to quality of care and shall require corrections or modifications as  
1669 deemed necessary.

1670 E. The Commissioner shall have no jurisdiction to adjudicate individual controversies arising under  
1671 this article.

1672 F. The Commissioner of Health or the nonprofit organization pursuant to § 32.1-276.4 may prepare a  
1673 summary of the information submitted pursuant to this provision and § 32.1-222.10:01 to be included in  
1674 the patient level data base.

1675 § 51.1-126.1. Certain employees of teaching hospitals.

1676 A. Any teaching hospital affiliated with an institution of higher education, other than the Medical  
1677 College of Virginia Hospitals Authority or the University of Virginia Medical Center, may establish a  
1678 retirement plan covering in whole or in part its employees who are health care providers, as determined  
1679 by the Department of ~~Personnel and Training~~*Human Resource Management* pursuant to § 2.1-116, and is  
1680 authorized to make contributions for the benefit of its employees who elect to participate in such plan or  
1681 arrangement rather than in the retirement system established by this chapter. Any such alternative  
1682 retirement plan shall not become effective until July 1, 1991, or any time thereafter, as determined by  
1683 such teaching hospital. Any health care provider employed by such teaching hospital on or after July 1,  
1684 1991, may make an irrevocable election to participate in either the retirement plan established by this  
1685 chapter or the plan provided by the teaching hospital, in accordance with guidelines established by the  
1686 Virginia Retirement System. The election herein provided shall, as to any health care provider employed  
1687 after the alternative retirement plan implementation date, be exercised not later than thirty-one days from  
1688 the time of entry upon the performance of his duties.

1689 B. No health care provider employed by a teaching hospital who is an active member of a plan  
1690 established under this section shall also be an active member of the retirement system or a beneficiary  
1691 other than a contingent annuitant.

1692 C. The contribution by the Commonwealth to any other retirement plan established on behalf of  
1693 health care providers as provided in subsection A shall be the contribution by the Commonwealth which  
1694 would be required if the health care provider were a member of the retirement system or eight percent  
1695 of creditable compensation, whichever is less.

1696 D. If the institution of higher education with which the teaching hospital is affiliated has adopted a  
1697 retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching,  
1698 administrative, or research duties, the plan established under this section shall offer the same investment  
1699 opportunities as are available to the participants of the plan established under § 51.1-126.

1700 E. The Virginia Retirement System shall develop policies and procedures for the administration of  
1701 the retirement plan established under this section.

1702 § 51.1-153. Service retirement.

1703 A. Normal retirement. - Any member in service at his normal retirement date with five or more years  
1704 of creditable service may retire at any time upon written notification to the Board setting forth the date  
1705 the retirement is to become effective. Any member in service who was denied membership prior to July  
1706 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his  
1707 normal retirement date and the requirement of having five or more years of service shall not apply.

1708 B. 1. Early retirement. - Any member in service who has attained his fifty-fifth birthday with five or  
1709 more years of creditable service may retire prior to his normal retirement date upon written notification  
1710 to the Board setting forth the date the retirement is to become effective.

1711 2. Any state employee, teacher, or employee of a political subdivision who is a member of the  
1712 retirement system may retire prior to his normal retirement date after attaining age fifty and thirty years  
1713 of creditable service, upon written notification to the Board setting forth the date the retirement is to  
1714 become effective. The benefit for such member shall be calculated in accordance with the provisions of  
1715 subdivision A 1 of § 51.1-155.

1716 C. Deferred retirement for members terminating service. - Any member who terminates service after  
1717 five or more years of creditable service, regardless of termination date, may retire under the provisions  
1718 of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to  
1719 the effective date of his retirement or if he has five or more years of creditable service for which his  
1720 employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of

1721 this subsection, any requirements as to the member being in service shall not apply. No member shall be  
 1722 entitled to the benefits of this subsection if his employer certifies that his service was terminated  
 1723 because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the  
 1724 Board.

1725 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
 1726 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
 1727 date upon written notification to the Board setting forth the date the retirement is to become effective. A  
 1728 member who is a state employee shall not be eligible for retirement pursuant to this subsection unless  
 1729 the employee has entered into a binding agreement with the Department of ~~Personnel and~~  
 1730 ~~Training~~ *Human Resource Management* providing that the employee shall not thereafter reenter into  
 1731 full-time or part-time employment with any agency in the executive branch of the Commonwealth for a  
 1732 period of two years following retirement. Institutions of higher education may enter into a contract with  
 1733 a member on a part-time basis, not to exceed twenty hours per week, to provide unique technical  
 1734 expertise for projects sponsored by institution-affiliated research foundations, authorities, or nonprofit  
 1735 corporations.

1736 E. Effective date of retirement. - The effective date of retirement shall be after the last day of service  
 1737 of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

1738 F. Notification on behalf of member. - If the member is physically or mentally unable to submit  
 1739 written notification of his intention to retire, the member's appointing authority may submit notification  
 1740 on his behalf.

1741 § 51.1-205. Service retirement generally.

1742 A. Normal retirement. - Any member in service at his normal retirement date with five or more years  
 1743 of creditable service may retire upon written notification to the Board, setting forth the date the  
 1744 retirement is to become effective. Any member, except one appointed by the Governor or elected by the  
 1745 people, who attains seventy years of age shall be retired forthwith. Any employer, subsequent to the  
 1746 employee's normal retirement date, may provide for compulsory service retirement upon a determination  
 1747 that age is a bona fide occupational qualification reasonably necessary to the normal operation of the  
 1748 particular business or that the employee is incapable of performing his duties in a safe and efficient  
 1749 manner. Any such determination shall be made by the employer.

1750 B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more  
 1751 years of creditable service may retire upon written notification to the Board setting forth the date the  
 1752 retirement is to become effective.

1753 C. Deferred retirement for members terminating service. - Any member who terminates service after  
 1754 five or more years of creditable service, may retire under the provisions of subsection A, B, or D of this  
 1755 section if he has not withdrawn his accumulated contributions prior to the effective date of his  
 1756 retirement or if he has five or more years of creditable service, regardless of termination date, for which  
 1757 his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of  
 1758 this subsection, any requirements as to the member being in service shall not apply. No member shall be  
 1759 entitled to the benefits of this subsection if his employer certifies that his service was terminated  
 1760 because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the  
 1761 Board.

1762 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
 1763 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
 1764 date upon written notification to the Board setting forth the date the retirement is to become effective. A  
 1765 member shall not be eligible for retirement pursuant to this subsection unless the member has entered  
 1766 into a binding agreement with the Department of ~~Personnel and Training~~ *Human Resource Management*  
 1767 providing that the member shall not thereafter reenter into full-time or part-time employment with any  
 1768 agency in the executive branch of the Commonwealth for a period of two years following retirement.

1769 E. Effective date of retirement. - The effective date of retirement shall be after the last day of service  
 1770 of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

1771 F. Notification on behalf of member. - If the member is physically or mentally unable to submit  
 1772 written notification of his intention to retire, the member's appointing authority may submit notification  
 1773 on his behalf.

1774 § 51.1-216. (Effective October 1, 1999) Service retirement generally.

1775 A. Normal retirement. - Any member in service at his normal retirement date with five or more years  
 1776 of creditable service may retire upon written notification to the Board, setting forth the date the  
 1777 retirement is to become effective.

1778 B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more  
 1779 years of creditable service may retire upon written notification to the Board setting forth the date the  
 1780 retirement is to become effective.

1781 C. Deferred retirement for members terminating service. - Any member who terminates service after

1782 five or more years of creditable service may retire under the provisions of subsection A, B, or D of this  
 1783 section if he has not withdrawn his accumulated contributions prior to the effective date of his  
 1784 retirement or if he has five or more years of creditable service for which his employer has paid the  
 1785 contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any  
 1786 requirements as to the member being in service shall not apply. No member shall be entitled to the  
 1787 benefits of this subsection if his employer certifies that his service was terminated because of  
 1788 dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

1789 D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his  
 1790 fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement  
 1791 date upon written notification to the Board setting forth the date the retirement is to become effective. A  
 1792 member shall not be eligible for retirement pursuant to this subsection unless the member has entered  
 1793 into a binding agreement with the Department of ~~Personnel and Training~~ *Human Resource Management*  
 1794 providing that the member shall not thereafter reenter into full-time or part-time employment with any  
 1795 agency in the executive branch of the Commonwealth for a period of two years following retirement.

1796 E. Effective date of retirement. - The effective date of retirement shall be after the last day of service  
 1797 of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

1798 F. Notification on behalf of member. - If the member is physically or mentally unable to submit  
 1799 written notification of his intention to retire, the member's appointing authority may submit notification  
 1800 on his behalf.

1801 § 51.1-502.1. Certain employees of teaching hospitals.

1802 Any teaching hospital affiliated with an institution of higher education, other than the University of  
 1803 Virginia Medical Center, may purchase group life, accidental death and dismemberment, and disability  
 1804 insurance policies covering in whole or in part its employees who are health care providers, as  
 1805 determined by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to  
 1806 § 2.1-116. In addition, any such teaching hospital may increase the coverage under such policies to  
 1807 make available to each active insured employee optional life, accidental death and dismemberment  
 1808 insurance as provided in § 51.1-512. All health care providers employed by such teaching hospital on or  
 1809 after July 1, 1992, shall be covered by the policies purchased by the teaching hospital as soon as such  
 1810 policies become effective and may not elect to be covered by the Board's group insurance program  
 1811 under § 51.1-501. Nor shall they be required to present at their own expense evidence of insurability  
 1812 satisfactory to an insurance company upon changing from one form of coverage to another provided by  
 1813 this chapter. No other section of this chapter shall apply to insurance coverage offered by a teaching  
 1814 hospital to which this section applies, except §§ 51.1-510 and 51.1-511.

1815 Notwithstanding the definition of "state employee" contained in § 51.1-124.3, a health care provider,  
 1816 as determined in accordance with subdivision A 18 of § 2.1-116, may be enrolled in a health care plan  
 1817 other than that provided for in § 2.1-20.1, at the election of a teaching hospital to which this section  
 1818 applies, and subject to the review and approval of the Secretary of Education.

1819 § 51.1-512.1. Optional insurance for the spouse and minor dependents of employees.

1820 A. The Board shall, under the terms and conditions specified in this chapter, make available to any  
 1821 active insured employee optional life, accidental death, and dismemberment insurance on the employee's  
 1822 spouse and minor dependents in the following amounts:

1823 1. For the spouse of an active insured employee: an amount up to fifty percent of the maximum  
 1824 amount of optional insurance available to the employee under § 51.1-512.

1825 2. For any minor dependent of an active insured employee: \$5,000, \$10,000, or \$15,000. The Board  
 1826 shall adjust these amounts periodically to account for changes in the purchasing power of money over  
 1827 time.

1828 B. The optional life, accidental death, and dismemberment insurance on the employee's spouse and  
 1829 minor dependents shall be made available for purchase by each active insured employee under  
 1830 conditions prescribed by the Board.

1831 C. All optional insurance on an employee's spouse shall cease upon the earliest of (i) the date the  
 1832 employee retires from service, (ii) the date the employee's basic coverage ceases, or (iii) the entry of a  
 1833 final divorce decree terminating the marriage of the employee and the employee's spouse. All optional  
 1834 insurance on an employee's minor dependent shall cease upon the earliest of (i) the date the employee  
 1835 retires for service, (ii) the minor dependent attains the age of twenty-one, unless the minor dependent is  
 1836 a full-time college student, then age twenty-five or unless the minor dependent is under a mental or  
 1837 physical disability, in which event coverage shall not terminate until three months following cessation of  
 1838 the disability, (iii) marriage of the minor dependent, or (iv) the date the employee's basic coverage  
 1839 ceases. Subject to foregoing limitations, the optional amount of life insurance in force on the spouse or  
 1840 minor dependent of an employee who retires for disability on an immediate retirement allowance may be  
 1841 continued, subject to payment of any required premium by the employee, during continuance of such  
 1842 disability but not beyond the end of the month in which the employee attains age sixty-five.

1843 D. During any period in which an active employee has optional insurance in force on the employee's

1844 spouse or minor dependent, the full cost thereof shall be withheld from the employee's salary. During  
 1845 any period in which an employee continues optional life insurance on the employee's spouse or minor  
 1846 dependent after retiring for disability on an immediate retirement allowance, the full cost thereof shall be  
 1847 withheld from the employee's retirement allowance.

1848 E. The cost of the optional insurance shall be determined periodically by the Board on the basis it  
 1849 considers appropriate. On or after July 1, 1998, the Board may discontinue the optional insurance plan  
 1850 at any time upon determination that employee participation is not sufficient to continue the plan on a  
 1851 sound actuarial basis.

1852 F. The amount of optional life, accidental death, and dismemberment insurance in force on an  
 1853 employee's spouse or minor dependent at the date of his or her death shall be paid as provided in this  
 1854 chapter.

1855 G. The Board shall determine the form and content of the accounting reports to be made by the  
 1856 insurance company with respect to the optional insurance. Any expenses incurred by the Retirement  
 1857 System for operating and administering the optional insurance programs provided in this section may be  
 1858 recovered by the Board from the advance premium deposit reserve required by subsection B of  
 1859 § 51.1-514.

1860 H. As used in this section, an employee's "minor dependent" means a child member of the  
 1861 employee's family who is eligible for coverage under the family membership program offered under  
 1862 policies and procedures of the Department of ~~Personnel and Training~~ *Human Resource Management*  
 1863 governing health insurance plans administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

1864 I. The provisions of this chapter applicable to the provision of group insurance policies to insure  
 1865 eligible employees shall apply to optional insurance insuring the spouses and minor dependents of  
 1866 eligible employees pursuant to this section, with the respective differences having been considered.

1867 § 51.1-513.1. Long-term care insurance.

1868 The Department of ~~Personnel and Training~~ *Human Resource Management* is authorized to develop,  
 1869 implement, and administer a long-term care insurance program. The program shall be coordinated with  
 1870 any disability, life, or other insurance program administered under this title. The Department of  
 1871 ~~Personnel and Training~~ *Human Resource Management* is authorized to contract for and purchase such  
 1872 coverage or use other actuarially sound funding necessary to effectuate this provision.

1873 § 51.1-1101. Sickness and disability program; disability insurance policies.

1874 A. The Board shall develop, implement, and administer a sick leave, short-term disability, and  
 1875 long-term disability benefits program in accordance with the provisions of this chapter. The Board is  
 1876 authorized to delegate or assign to any person any of the duties required to be performed by the Board  
 1877 pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for  
 1878 participating employees. The policies shall be purchased from and carried with a disability insurance  
 1879 company which is authorized to do business in the Commonwealth. Each policy shall contain a  
 1880 provision stipulating the maximum expense and risk charges that are determined by the Board to be on  
 1881 a basis consistent with the general level of charges made by disability insurance companies under  
 1882 policies of long-term disability insurance issued to large employers. The Board may require that the  
 1883 policies have reinsurance with a disability insurance company incorporated or organized under the laws  
 1884 of and authorized to do business in the Commonwealth. This section is not intended to abrogate the  
 1885 final authority of the Director of the Department of ~~Personnel and Training~~ *Human Resource*  
 1886 *Management* under subdivision 13 of § 2.1-114.5 to establish and interpret personnel policy and  
 1887 procedures, such as the sick leave policy.

1888 B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability  
 1889 benefits in accordance with the standards set forth in § 51.1-124.30.

1890 § 51.1-1106. Sick leave benefit for nonparticipating employees.

1891 Eligible employees subject to personnel policies of the Department of ~~Personnel and Training~~ *Human*  
 1892 *Resource Management* who do not elect to participate in the program shall receive sick leave benefits in  
 1893 accordance with policies of the Department of ~~Personnel and Training~~ *Human Resource Management*.  
 1894 Eligible employees not subject to personnel policies of the Department of ~~Personnel and Training~~ *Human*  
 1895 *Resource Management* who do not elect to participate in the program shall receive sick leave benefits in  
 1896 accordance with policies of their appointing authority.

1897 § 62.1-129.1. Employees; employment; personnel rules; health insurance; retirement plans.

1898 A. Employees of the Authority shall be employed on such terms and conditions as established by the  
 1899 Authority. The Board of Commissioners of the Authority shall develop and adopt personnel rules,  
 1900 policies, and procedures to give its employees grievance rights, ensure that employment decisions shall  
 1901 be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion,  
 1902 color, sex or national origin.

1903 B. The Authority shall issue a written notice to its employees regarding the Authority's status. The  
 1904 date upon which such written notice is issued shall be referred to herein as the "option date." Each

1905 employee may, by written request made within 180 days of the option date, elect not to become  
1906 employed by the Authority. Any employee of the Virginia Port Authority who: (i) elects not to become  
1907 employed by the Authority and who is not reemployed by any other department, institution, board,  
1908 commission or agency of the Commonwealth; (ii) is not offered the opportunity to remain employed by  
1909 the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or  
1910 is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance  
1911 benefits conferred by the provisions of the Workforce Transition Act (§ 2.1-116.20 et seq.). Any  
1912 employee who accepts employment with the Authority shall not be considered to be involuntarily  
1913 separated from state employment and shall not be eligible for the severance benefits conferred by the  
1914 Workforce Transition Act.

1915 C. Any employee of the Authority who is a member of any plan providing health insurance coverage  
1916 pursuant to Chapter 2 (§ 2.1-11.1 et seq.) of Title 2.1, shall continue to be a member of such health  
1917 insurance plan under the same terms and conditions. Notwithstanding subdivision A 2 of § 2.1-20.1, the  
1918 costs of providing health insurance coverage to such employees who elect to continue to be members of  
1919 the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee  
1920 may elect to become a member of any health insurance plan established by the Authority. The Authority  
1921 is authorized to: (i) establish a health insurance plan for the benefit of its employees and (ii) enter into  
1922 agreements with the Department of ~~Personnel and Training~~ *Human Resource Management* providing for  
1923 the coverage of its employees under the state employees' health insurance plan, provided that such  
1924 agreement requires the Authority to pay the costs of providing health insurance coverage under such  
1925 plan.

1926 D. Any retired employee of the Authority shall be eligible to receive the health insurance credit set  
1927 forth in § 2.1-20.1:2 provided the retired employee meets the eligibility criteria set forth in that section.

1928 E. Any Authority employee who is a member of the Virginia Retirement System or other retirement  
1929 plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a  
1930 member of the Virginia Retirement System or other authorized retirement plan under the same terms and  
1931 conditions. Alternatively, such employee may elect to become a member of the retirement program  
1932 established by the Authority for the benefit of its employees pursuant to § 51.1-126.4. The following  
1933 rules shall apply:

1934 1. The Authority shall collect and pay all employee and employer contributions to the Virginia  
1935 Retirement System or other such authorized retirement plan for retirement and group life insurance in  
1936 accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for any employee who  
1937 elects to remain a member of the Virginia Retirement System or other such authorized retirement plan.

1938 2. Employees who elect to become members of the alternative retirement plan established by the  
1939 Authority pursuant to § 51.1-126.4 shall be given full credit for their creditable service as defined in  
1940 § 51.1-124.3, and vesting and benefit accrual under the retirement plan. For any such employee,  
1941 employment with the Authority shall be treated as employment with any nonparticipating employer for  
1942 purposes of the Virginia Retirement System or other retirement plan authorized pursuant to Article 4  
1943 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

1944 3. For employees who elect to become members of the alternative retirement plan established by the  
1945 Authority, the Virginia Retirement System or other such authorized plan shall transfer to the alternative  
1946 retirement plan established by the Authority, assets equal to the actuarially determined present value of  
1947 the accrued basic benefits as of the transfer date. For purposes hereof, the "basic benefits" means the  
1948 benefits accrued under the Virginia Retirement System or other such authorized retirement plan based on  
1949 creditable service and average final compensation as defined in § 51.1-124.3. The actuarial present value  
1950 shall be determined by using the same actuarial factors and assumptions used in determining the funding  
1951 needs of the Virginia Retirement System or other such authorized retirement plan so that the transfer of  
1952 assets to the alternative retirement plan established by the Authority will have no effect on the funded  
1953 status and financial stability of the Virginia Retirement System or other such authorized retirement plan.  
1954 The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services  
1955 necessary to determine the present value of the accrued basic benefit of employees who transfer to an  
1956 Authority retirement plan.

1957 **2. That where ever in the Code of Virginia the term "Department of Personnel and Training" is**  
1958 **used, it shall be deemed to mean the "Department of Human Resource Management."**