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## SENATE BILL NO. 35

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 28, 2002)

(Patron Prior to Substitute—Senator Stolle)

A BILL to amend and reenact §§ 1 through 19, as amended, of Chapter 471 of the Acts of Assembly of 1964, and to amend such chapter by adding sections numbered 8.2 and 8.3, and to amend and reenact §§ 2.2-3106, 2.2-3705, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23-14, 32.1-122.6, 32.1-279, and 54.1-2961 of the Code of Virginia, relating to Eastern Virginia Medical School; emergency.

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

1. That §§ 1 through 19, as amended, of Chapter 471 of the Acts of Assembly of 1964 are amended and reenacted, and that such chapter is amended by adding sections numbered 8.2 and 8.3, and that §§ 2.2-3106, 2.2-3705, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23-14, 32.1-122.6, 32.1-279, and 54.1-2961 of the Code of Virginia are amended and reenacted as follows:

§ 1. There is hereby created a public body politic and corporate and a political subdivision of the Commonwealth to be known as the "Medical College of Hampton Roads Eastern Virginia Medical School" hereinafter referred to as "the Medical College School", with such public and corporate powers as are hereinafter set forth. The Medical College School may sue and be sued, plead and be impleaded, and shall have the power and authority to contract and be contracted with and to exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter provided.

§ 2. The Medical College School shall be governed by a Board of Visitors (the "Board") composed of seventeen members, six of whom shall be appointed by the Eastern Virginia Medical College of Hampton Roads School Foundation and eleven of whom shall be appointed by their respective city councils as follows: one member for the City of Chesapeake, one member for the City of Hampton, one member for the City of Portsmouth, one member for the City of Suffolk, one member for the City of Newport News, two members for the City of Virginia Beach, and four members for the City of Norfolk.

Appointments by the Eastern Virginia Medical College of Hampton Roads School Foundation (the "Foundation") shall represent the broad involvement of the Medical College School in the Commonwealth at large. All appointments shall be for terms of three years, except that commencing on the first day of July of the appointment year. However, appointments to fill vacancies shall be made by the Foundation and each council, as the case may be, to commence on appropriate dates for the unexpired terms.

No person shall be eligible to serve for more than two successive full three-year terms; but, however, after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which the member was appointed to fill a vacancy, or after one year following the expiration of a second full three-year term, two additional three-year terms may be served by a member, if appointed.

Members shall receive no salaries but shall be entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until his successor has been appointed and qualified.

The Foundation and each city council shall have the right to remove any member appointed by them, for malfeasance or misfeasance, incompetency incompetence, or gross neglect of duty.

Members shall take an appropriate oath of office before the clerk of the circuit court of the municipality representing them that they represent or the clerk of an appropriate circuit court, and same the oaths shall be filed with their respective city the relevant clerks. Members appointed by the Foundation shall take an appropriate oath of office before the clerk of the Norfolk Circuit Court, and same which shall be filed with the city clerk of Norfolk.

Members of the Board shall elect, on an annual basis, one of their number as rector and another as vice-rector and shall also elect a secretary and treasurer and such assistant secretaries and treasurers as the Board may authorize for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer.

The Board shall appoint a President, who shall be the chief executive officer, with such duties as may be prescribed by the Board and it. The Board shall also appoint a dean, a provost, such vice presidents, and other administrative and academic officers as the Board may authorize, and such professors, teachers, staff members, and agents as they deem proper. The Board may prescribe their the duties; of such staff and faculty, and provide for the employment of other personnel as may be necessary; and. The Board shall generally direct the affairs of the Medical College School.

The Board shall make such rules, regulations and bylaws for its own government and procedures as it shall determine. The Board may generally, in respect to the government and management of the

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60 Medical College School, ~~make~~ adopt such rules and regulations as it may deem expedient, *which are not*  
61 *contrary to law; and. The Board shall meet at least six times each year and may hold such special*  
62 *meetings as it deems necessary. The rector or any three members may call special meetings of the*  
63 *Board. The Board may appoint an executive committee composed of at least three and no more than*  
64 *five members for the transaction of business in the recess of the Board.*

65 The Board shall have the right to confer degrees, including honorary degrees, *consistent with the*  
66 *approval authority of the State Council of Higher Education pursuant to Title 23 of the Code of*  
67 *Virginia.*

68 § 3. The Medical College School shall be deemed to be a public instrumentality, *having its primary*  
69 *offices and facilities located in the Hampton Roads area of the Commonwealth of Virginia. The Medical*  
70 *School shall have the power to exercise and the purpose of exercising public and essential governmental*  
71 *functions to provide for the public health, welfare, convenience, knowledge, benefit, and prosperity of*  
72 *the residents of the Commonwealth of Virginia and such other persons who might as may be served by*  
73 *the Medical College School; and to provide medical education and improved. In the exercise of such*  
74 *power and purpose, the Medical School shall deliver and support the delivery of high quality medical*  
75 *and health care and related services to such residents and persons regardless of their ability to pay, by*  
76 *providing educational opportunities and conducting and facilitating research and. Further, the Medical*  
77 *School is hereby authorized to exercise the powers conferred by the following sections, consistent with*  
78 *the approval authority of the State Council of Higher Education pursuant to the Code of Virginia this*  
79 *chapter.*

80 § 4. The Medical College School may identify, document and evaluate needs, problems and resources  
81 relating to ~~health and~~ medical and health care, education, and research; and may plan, develop and  
82 implement programs to meet such needs on both an immediate and long-range basis.

83 § 5. The Medical College School may plan, design, construct, possess, own, remove, renovate,  
84 enlarge, equip, maintain and operate projects for the purpose of providing medical and health care,  
85 education, ~~medical care,~~ and research, and related and supporting services, and other appropriate  
86 purposes. The Medical College School may lease, sell, or otherwise convey any or all of its projects to  
87 others who agree to provide for the operation of the same if the Medical College School determines that  
88 such ~~sale,~~ lease, sale, or other conveyance will assist, promote, or further the purposes and intent of this  
89 act.

90 "Projects," as used in this act, mean any medical educational institutions and facilities, including, but  
91 not limited to, colleges, schools, and divisions offering undergraduate and graduate programs for the  
92 health professions and sciences and such other branches of learning as may be appropriate; medical and  
93 paramedical facilities; and such other facilities as shall be deemed by the Board as consistent with the  
94 powers and purposes of the Medical College School, together with all related and supporting facilities;  
95 and all lands, buildings, improvements, and any other appurtenances and equipment necessary or  
96 desirable in connection therewith or incidental thereto.

97 "Operating project," as used in this act, means any project owned, in whole or in part, or controlled,  
98 directly or indirectly, in whole or in part, or operated, directly or indirectly, by the Medical College  
99 School, and shall also include, without limitation, parking, utility, and similar essential and related  
100 facilities operated by the Medical College School or an agent therefor, either for itself or for itself and  
101 other health-related entities and institutions on a shared-support basis.

102 § 6. The Medical College School may acquire property, real or personal, by purchase, lease, gift,  
103 devise or by the exercise of the power of eminent domain, on such terms and conditions, and in such  
104 manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its  
105 purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein whenever it  
106 shall become expedient to do so. The power of eminent domain shall be exercised in accordance with  
107 Chapter 1.1 (§ 25-46.1 et seq.) of Title 25 of the Code of Virginia and only within the corporate limits  
108 of the City of Norfolk and only for the purpose of acquiring property to be used for operating projects.  
109 No property of any corporation itself having the power of eminent domain may be condemned  
110 hereunder.

111 § 7. The Medical College School may fix and revise from time to time and charge and collect rates,  
112 rentals, fees and other charges for the services and facilities furnished by the Medical College School,  
113 and establish and revise from time to time regulations, in respect to the use, occupancy or operation of  
114 any such facility or part thereof, or service rendered.

115 § 8. The Medical College School may accept loans, grants, contributions, or assistance from the  
116 federal government, the Commonwealth of Virginia, any municipality thereof, or from any other sources,  
117 public or private, to carry out any of its purposes and may enter into any agreement or contract  
118 regarding or relating to the acceptance or use or repayment of any such loan, grant, contribution, or  
119 assistance.

120 § 8.1. The Medical College School shall have the following powers to carry out the purposes and  
121 intent of this act:

(a) To provide or assist in providing medical *and health care*, education, and ~~medical care~~ research and related and supporting services ~~in~~ *within or without* the Commonwealth of Virginia *or the United States*.

(b) *To develop, undertake, conduct, and provide programs, alone or in conjunction with any other public or private person or entity for medical, biomedical, and health care research and any associated disciplines relating to the knowledge about and the causes and cures of diseases, conditions, syndromes, or disorders or to health care services or the delivery of health care.*

(c) *To foster the utilization of information, discoveries, data, and material produced through medical, biomedical, and health care research; to obtain patents, copyrights, and trademarks for such intellectual properties; to administer and manage such intellectual properties or to contract for such administration and management by entities organized for such purpose; and to market, transfer, and convey, in whole or in part, any interests in such information, discoveries, data, materials, patents, copyrights, trademarks, or other intellectual properties in any manner consistent with the Medical School's patent and copyright policies and the terms of any grants or contracts providing financial support for the relevant research.*

(d) To promote, develop, improve, and increase the health, welfare, convenience, commerce, and prosperity of the Commonwealth of Virginia.

(ee) To assist in or provide for the creation of *domestic or foreign* stock and nonstock corporations, and to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign corporations, partnerships, associations, joint ventures, or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, or municipality, or of any other obligations of any association, partnership, or individual or any other domestic or foreign corporation organized for any purpose.

(ef) To provide *appropriate assistance in carrying out any activities authorized by this act to any domestic or foreign* corporations, partnerships, associations, joint ventures, or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Medical ~~College~~ *School*; ~~appropriate assistance, including, but not limited to, making loans and providing time of employees; in carrying out any activities authorized by this act.~~

(eg) To make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities.

(fh) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(gi) To transact its business, *establish and* locate its offices, *facilities, and any satellite offices and facilities, other than its primary Hampton Roads offices and facilities, at other locations within and without the Commonwealth of Virginia or the United States*, and control, directly or through *domestic or foreign* stock or nonstock corporations or other entities, facilities that will assist or aid the Medical ~~College~~ *School* in carrying out the purposes and intent ~~of set forth in this act as set forth in §-3 above~~, including, ~~without limitation but not limited to~~, the power to own or operate, directly, or indirectly, medical educational and research institutions, medical, *research*, and paramedical facilities, together with related and supporting facilities and projects, ~~in~~ *within or without* the Commonwealth of Virginia *or the United States*.

(j) *To hire employees and staff as necessary for the transaction of its business within and without the Commonwealth of Virginia and the United States.*

(hk) To participate in joint ventures, *within or without the Commonwealth of Virginia or the United States*, with individuals, corporations, partnerships, associations, or other entities for providing *such medical and health care, education, medical care and research*, or related services or other activities that the Medical ~~College~~ *School* may *determine to undertake to the extent that such undertakings assist the Medical College in carrying out the purposes and intent of this act.*

(il) To conduct or engage, *directly or indirectly*, in any lawful business, activity, effort, or project, necessary ~~or~~, convenient, *or desirable to assist the Medical School in carrying out its for the public* purposes ~~of the Medical College~~ or for the exercise of any of its powers, *within or without the Commonwealth of Virginia or the United States, so long as any private benefit resulting to any other corporation or other entity from any such business, activity, effort, or project is merely incidental to the resulting public benefit. However, nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia or of the Medical School.*

(jm) To have and exercise, in addition to its other powers, all the corporate powers granted to corporations by the provisions of Title 13.1 of the Code of Virginia, except in those cases where, by the express terms of the provisions thereof, it is confined to corporations created under such title; and, *further, to also have the power to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.*

§ 8.2. *The provisions of the Administrative Process Act (§ 2.2-4000, et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia shall not apply to the Eastern Virginia Medical School in the exercise of any power conferred under this chapter, as amended.*

§ 8.3. *In hiring practices and in the procurement of goods and services, the Medical School shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.*

§ 9. The Medical College School may borrow money and issue bonds as hereinafter provided.

§ 10. In addition to the powers granted by general law or by its charter, any county, city, or town in the Commonwealth is empowered to cooperate with the Medical College School as follows:

(a) To make such appropriations and provide such funds for the operation and carrying out the purposes of the Medical College School as the governing body may deem proper, either by outright donation or by loan, or the governing body may agree with the Medical College School to take such action.

(b) To dedicate, sell, convey, or lease any of its interest in property, or grant liens, easements, licenses or any other privileges therein or thereon to or for the benefit of the Medical College School.

(c) To cause parks, playgrounds, and recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with property of or any facility or project of the Medical College School.

(d) To furnish, dedicate, close, pave, install, grade or regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places, which it is otherwise empowered to undertake.

(e) To plan or replan, zone or rezone any part of such county, city, or town in connection with the use of any property of the Medical College School or any property adjacent to the property of the Medical College School or any of its facilities or projects which that it is otherwise empowered to undertake, in accordance with general laws.

(f) To cause services to be furnished to the Medical College School of the character which that such county, city, or town is empowered to furnish.

(g) To purchase any of the bonds of the Medical College School or legally invest in such bonds any funds belonging to or within the control of such county, city, or town and exercise all the rights of any holder of such bonds.

(h) To do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction or operation of any of the plans, projects or facilities of the Medical College School.

(i) To enter into agreements with the Medical College School respecting action to be taken by such county, city, or town pursuant to any of the above powers.

§ 11. The Medical College School is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of any project within the Commonwealth of Virginia, financing any of its programs or its general operations, or refunding any bonds or other obligations of the Medical College School now or hereafter outstanding whether or not the bonds or obligations to be refunded have matured or are then subject to redemption.

Refunding bonds may be issued in exchange for bonds or obligations being refunded, to pay the principal, premium, if any, and interest accrued and to accrue on such bonds or obligations, or any portion thereof, to maturity or earlier date of redemption or to pay the purchase price of any such bonds or obligations to be retired upon such purchase, as may be determined by the Medical College School.

The Medical College School may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest from any one or more of the following sources: (a) its revenues generally; (b) the income and revenues of a particular project (including revenues from the sale or lease of such project); (c) the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds; (d) the proceeds of the sale or lease of any project or projects, whether or not they are financed from the proceeds of such bonds; (e) funds realized from the enforcement of security interests or other liens securing such bonds; (f) proceeds from the sale of bonds of the Medical College School; (g) payments due under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements securing payment of bonds of the Medical College School; (h) any reserve or sinking funds created to secure such payment; or (i) other available funds of the Medical College School.

*As used in this act, unless the context requires otherwise:*

"Bonds;" as used in this act, includes bonds, notes, revenue certificates, lease participation certificates, and other evidences of indebtedness or deferred purchase financing arrangements.

"Cost;" as used in the previous paragraph, means costs of construction, reconstruction, renovation, site work, acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; costs of demolition, removal, or relocation of buildings or structures; costs of labor, materials, machinery, and all other kinds of equipment; financing charges; costs of issuance of the

bonds, including printing, engraving, advertising, legal, and other similar expenses; credit enhancement and liquidity facility fees; fees for interest rate caps, collars, and swaps; interest on bonds and other borrowing in connection with a project prior to and during construction thereof and for a period not exceeding one year after the completion of such construction; costs of engineering and inspections, financial, legal, and accounting services, plans, specifications, studies, surveys, estimates of costs and of revenues, feasibility studies, administrative expenses, including administrative expenses during the start-up of any project; provisions for working capital to be used in connection with any project; reserve funds and other reserves for the payment of principal and interest on bonds; and all other expenses necessary, desirable, or incidental to the construction, reconstruction, renovation, and acquisition of projects, the financing of same, or placing of the same in operation.

Any such bonds may be additionally guaranteed by, or secured by a pledge of any grant, contribution, or appropriation from, a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the Medical College School, or a mortgage of, or a deed of trust or other lien or a security interest in, any particular project or projects or other property of the Medical College School or any individual or entity referred to above.

Neither the members of the Board of the Medical College School nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the Medical College School (and such bonds shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof ~~and~~; neither the Commonwealth nor any political subdivision thereof, other than the Medical College School, shall be liable thereon, nor shall such bonds be payable out of any funds or properties of the Commonwealth or any political subdivision thereof, other than those of the Medical College School. The bonds shall not constitute ~~an~~ indebtedness within the meaning of any debt limitation or restriction *on any Virginia local government*. Bonds of the Medical College School are declared to be issued for an essential public and governmental purpose.

§ 12. Bonds of the Medical College School shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates, as may be determined by the Medical College School, or as may be determined in such manner as the Medical College School may provide, including the determination by agents designated by the Medical College School under guidelines established by the Medical College School; ~~and~~. Such bonds may be made redeemable or subject to tender before maturity, at the option of the Medical College School, at such price or prices and under such terms and conditions as may be fixed by the Medical College School prior to the issuance of the bonds.

The Medical College School shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company or securities depository within or without the Commonwealth.

In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth of Virginia. The bonds may be issued in coupon or registered form or both, as the Medical College School may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on such bonds.

The Medical College School may contract for the services of one or more banks, trust companies, financial institutions, or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange, and payment of the bonds, or may provide such services itself. The Medical College School may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Medical College School.

Prior to the preparation of definitive bonds, the Medical College School may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Medical College School may also provide for the replacement of any bonds ~~which~~ that shall become mutilated or shall be

306 destroyed, stolen, or lost.

307 Bonds may be issued under the provisions of this act without obtaining the consent of any  
308 commission, board, bureau or agency of the Commonwealth or of any political subdivision, and without  
309 any other proceedings or the happening of other conditions or things than those proceedings, conditions  
310 or things ~~which~~ *that* are specifically required by this act.

311 § 13. In the discretion of the Medical ~~College~~ *School*, any bonds issued under the provisions of this  
312 act may be issued pursuant to or secured by a trust indenture by way of conveyance, deed of trust or  
313 mortgage of any project or any other property of the Medical ~~College~~ *School*, whether or not financed in  
314 whole or in part from the proceeds of such bonds, or by a trust or other agreement by and between the  
315 Medical ~~College~~ *School* and a corporate trustee (which may be any trust company or bank having the  
316 powers of a trust company within or without the Commonwealth) or other agent for bondholders, or by  
317 both such conveyance, deed of trust or mortgage and indenture ~~or~~, trust or other agreement.

318 Such trust, indenture or agreement, or the resolution providing for the issuance of such bonds may  
319 pledge or assign fees, rents and other charges to be received. Such trust indenture or trust or other  
320 agreement, or resolution providing for the issuance of such bonds, may contain such provisions for  
321 protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper  
322 and not in violation of law, including covenants providing for the repossession and sale by the Medical  
323 ~~College~~ *School* or any trustees under any trust indenture or agreement of any project, or part thereof,  
324 upon any default under the lease or sale of such project, setting forth the duties of the Medical ~~College~~ *School*  
325 *School* in relation to the acquisition of property and the construction, improvement, maintenance, repair,  
326 operation and insurance of any project or other property of the Medical ~~College~~ *School*, the amounts of  
327 fees, rents and other charges to be charged, the collection of such fees, rents, and other charges, and the  
328 custody, safeguarding and application of all moneys of the Medical ~~College~~ *School*, and conditions or  
329 limitations with respect to the issuance of additional bonds.

330 It shall be lawful for any national bank with its main office in the Commonwealth or any other state  
331 or any bank or trust company incorporated under the laws of the Commonwealth or another state ~~which~~  
332 *that* may act as depository of the proceeds of such bonds or of other revenues of the Medical ~~College~~ *School*  
333 *School* to furnish indemnifying bonds or to pledge such securities as may be required by the Medical  
334 ~~College~~ *School*.

335 Such trust indenture, trust, or other agreement or resolution may set forth the rights and remedies of  
336 the bondholders and of the trustee or other agent for the bondholders, and may restrict the individual  
337 right of action by bondholders.

338 In addition to the foregoing, such trust indenture, trust or other agreement or resolution may contain  
339 such other provisions as the Medical ~~College~~ *School* may deem reasonable and proper for the security of  
340 the bondholders, including, without limitation, provisions for the assignment to a corporate trustee or  
341 other agent for bondholders of any rights of the Medical ~~College~~ *School* in any project owned, operated,  
342 or controlled by, or leases or sales of any projects made by, the Medical ~~College~~ *School*.

343 All expenses incurred in carrying out the provisions of such trust indenture or agreement or  
344 resolution or other agreements relating to any project, including those to which the Medical ~~College~~ *School*  
345 *School* may not be a party, may be treated as a part of the cost of a project.

346 § 14. The Medical ~~College~~ *School* is hereby authorized to fix, revise, charge and collect fees, rents  
347 and other charges for the use of any project. Such fees, rents and other charges shall be so fixed and  
348 adjusted as to provide a fund sufficient with other revenues to pay the principal of and any interest on  
349 bonds secured by or otherwise to be paid by such revenues as the same shall become due and payable,  
350 to create reserves for such purposes and for other purposes of the Medical ~~College~~ *School* and to pay  
351 the cost of maintaining, repairing, and operating the project. Such fees, rents and charges shall not be  
352 subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth  
353 or any such participating political subdivision.

354 The fees, rents and other charges received by the Medical ~~College~~ *School* may be applied and be set  
355 aside from time to time in the order and in the manner as may be provided in such resolution or trust  
356 indenture or agreement, including application to a sinking fund ~~which~~ *that* may be pledged to, and  
357 charged with, the payment of the principal of and the interest on such bonds as the same shall become  
358 due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein  
359 provided.

360 All pledges of such fees, rents, and other charges to payment of bonds shall be valid and binding  
361 from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received  
362 by the Medical ~~College~~ *School* shall immediately be subject to the lien of such pledge without any  
363 physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as  
364 against all parties having claims of any kind in tort, contract or otherwise against the Medical ~~College~~ *School*,  
365 *School*, ~~irrespective~~ *regardless* of whether such parties have notice thereof. Neither the resolution, any  
366 trust indenture, trust, nor other agreement by which a pledge is created need be filed or recorded except  
367 in the records of the Medical ~~College~~ *School*. The use and disposition of moneys to the credit of such

sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or trust or other agreement. Except as may otherwise be provided in such resolution or such trust indenture or trust or other agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

§ 15. All moneys received pursuant to the authority of this act by the Medical School, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act.

§ 16. Any holder of bonds, issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee or other agent for bondholders under any trust indenture or trust or other agreement, except to the extent that the rights herein given may be restricted by such trust indenture or trust or other agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture or trust or other agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or trust or other agreement or resolution to be performed by the Medical College School or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges.

§ 17. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, knowledge, benefit, convenience and prosperity, and as the operation and maintenance of any project which that the Medical College School is authorized to undertake will constitute the performance of an essential governmental function, no authority shall be required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this act; and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 18. Bonds issued by the Medical College School under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligation is now or may hereafter be authorized by law.

§ 19. This act shall constitute full and complete authority for the Medical School, without regard to the provisions of any other law, for the doing of the acts and things purposes, activities, and powers herein authorized, and shall be liberally construed to effect the purposes hereof. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act.

§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School.

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as defined in § 2.2-4301 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a state institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding,

429 the governing board of the educational institution or the Eastern Virginia Medical School ensures that  
430 the officer or employee, or the immediate family member, does not have sole authority to supervise,  
431 evaluate or make personnel decisions regarding the other;

432 3. An officer's or employee's personal interest in a contract of employment with any other  
433 governmental agency of state government;

434 4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of  
435 services or goods at uniform prices available to the general public;

436 5. An employee's personal interest in a contract between a public institution of higher education in  
437 Virginia or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other  
438 educational materials for students, which accrues to him solely because he has authored or otherwise  
439 created such textbooks or materials;

440 6. Subject to approval by the board of visitors, an employee's personal interest in a contract between  
441 the Eastern Virginia Medical School or a public institution of higher education in Virginia that operates  
442 a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical  
443 practice within such public institution of higher education or the Eastern Virginia Medical School and of  
444 which such employee is a member or employee;

445 7. Subject to approval by the board of visitors, an employee's personal interest in a contract for  
446 research and development or commercialization of intellectual property between a public institution of  
447 higher education in Virginia or the Eastern Virginia Medical School and a business in which the  
448 employee has a personal interest, if (i) the employee's personal interest has been disclosed to and  
449 approved by such public institution of higher education or the Eastern Virginia Medical School prior to  
450 the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement  
451 pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the  
452 institution has established a formal policy regarding such contracts, approved by the State Council of  
453 Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such  
454 contracts in conformity with any applicable federal regulations that has been approved by its board of  
455 visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical  
456 School files an annual report with the Secretary of the Commonwealth disclosing each open contract  
457 entered subject to this provision, the names of the parties to each contract, the date each contract was  
458 executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest,  
459 the institution's or the Eastern Virginia Medical School's employee responsible for administering each  
460 contract, the details of the institution's or the Eastern Virginia Medical School's commitment or  
461 investment of resources or finances for each contract, and any other information requested by the  
462 Secretary of the Commonwealth; or

463 8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract  
464 between a public institution of higher education in Virginia or the Eastern Virginia Medical School and  
465 a business in which the employee has a personal interest, if (i) the personal interest has been disclosed  
466 to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into;  
467 (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before  
468 January 15; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical  
469 School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School  
470 finds and certifies in writing that the contract is for goods and services needed for quality patient care,  
471 including related medical education or research, by the institution's medical center or the Eastern  
472 Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the  
473 fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v)  
474 no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an  
475 annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to  
476 this provision, the names of the parties to each contract, the date each contract was executed and its  
477 term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's  
478 or the Eastern Virginia Medical School's employee responsible for administering each contract, the  
479 details of the institution's or the Eastern Virginia Medical School's commitment or investment of  
480 resources or finances for each contract, and any other information requested by the Secretary of the  
481 Commonwealth.

482 D. Notwithstanding the provisions of subdivisions C. 7. and C. 8., if the research and development or  
483 commercialization of intellectual property or the employee's personal interest in a contract with a  
484 business is subject to policies and regulations governing conflicts of interest promulgated by any agency  
485 of the United States government, including the adoption of policies requiring the disclosure and  
486 management of such conflicts of interests, the policies established by the Eastern Virginia Medical  
487 School pursuant to such federal requirements shall constitute compliance with subdivisions C. 7. and C.  
488 8., upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by  
489 January 31 of each year of evidence of their compliance with such federal policies and regulations.

490 § 2.2-3705. Exclusions to application of chapter.



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

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

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

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

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

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

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

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

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

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and copying as provided in § 2.2-3704. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a public institution of higher education, the right of access may be asserted by the subject person.

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

As used in this subdivision:

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

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor

552 has delegated his authority pursuant to § 2.2-104.

553 7. Written advice of legal counsel to state, regional or local public bodies or public officials and any  
554 other records protected by the attorney-client privilege.

555 8. Legal memoranda and other work product compiled specifically for use in litigation or for use in  
556 an active administrative investigation concerning a matter that is properly the subject of a closed  
557 meeting under § 2.2-3711.

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

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

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

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

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

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

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

586 14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to  
587 § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed  
588 exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

589 15. Reports, documentary evidence and other information as specified in §§ 2.2-706 and 63.1-55.4.

590 16. Proprietary information gathered by or for the Virginia Port Authority as provided in  
591 § 62.1-132.4 or § 62.1-134.1.

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

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

598 19. Financial statements not publicly available filed with applications for industrial development  
599 financings.

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

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

609 22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise  
610 of confidentiality from the Department of Business Assistance, the Virginia Economic Development  
611 Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development  
612 authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for  
613 business, trade and tourism development; and memoranda, working papers or other records related to

businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

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

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

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

26. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

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

29. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

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

31. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

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

33. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or § 15.2-2305. However, access to one's own information shall not be denied.

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

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

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource.

675 This exemption shall not apply to requests from the owner of the land upon which the resource is  
676 located.

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

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

693 39. Those portions of engineering and construction drawings and plans submitted for the sole purpose  
694 of complying with the Building Code in obtaining a building permit that would identify specific trade  
695 secrets or other information the disclosure of which would be harmful to the competitive position of the  
696 owner or lessee. However, such information shall be exempt only until the building is completed.  
697 Information relating to the safety or environmental soundness of any building shall not be exempt from  
698 disclosure.

699 40. Records concerning reserves established in specific claims administered by the Department of the  
700 Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of  
701 Chapter 18 of this title, or by any county, city, or town.

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

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

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

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

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

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

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

736 48. Confidential proprietary records related to inventory and sales, voluntarily provided by private

energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

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

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

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

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

53. Confidential information designated as provided in subsection D of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

54. All information and records acquired during a review of any child death by the State Child Fatality Review team established pursuant to § 32.1-283.1, during a review of any child death by a local or regional child fatality review team established pursuant to § 32.1-283.2, and all information and records acquired during a review of any death by a family violence fatality review team established pursuant to § 32.1-283.3.

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

56. Confidential proprietary records that are voluntarily provided by a private entity pursuant to a proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms "public entity" and "private entity" shall be defined as they are defined in the Public-Private Transportation Act of 1995.

57. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; or records of emergency service agencies to the extent that such records contain specific tactical plans relating to antiterrorist activity.

58. All records of the University of Virginia or the University of Virginia Medical Center *or Eastern Virginia Medical School, as the case may be*, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center *or Eastern Virginia Medical School, as the case may be*, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center *or Eastern Virginia Medical School, as the case may be*, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center *or Eastern Virginia Medical School, as the case may be*.

59. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

60. Records of the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties

798 pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in  
799 awarding contracts for construction or the purchase of goods or services; data, records or information of  
800 a proprietary nature produced or collected by or for the Authority or members of its medical or teaching  
801 staffs; financial statements not publicly available that may be filed with the Authority from third parties;  
802 the identity, accounts or account status of any customer of the Authority; consulting or other reports  
803 paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and  
804 the determination of marketing and operational strategies where disclosure of such strategies would be  
805 harmful to the competitive position of the Authority; and data, records or information of a proprietary  
806 nature produced or collected by or for employees of the Authority, other than the Authority's financial  
807 or administrative records, in the conduct of or as a result of study or research on medical, scientific,  
808 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a  
809 governmental body or a private concern, when such data, records or information have not been publicly  
810 released, published, copyrighted or patented.

811 61. Confidential proprietary information or trade secrets, not publicly available, provided by a private  
812 person or entity to the Virginia Resources Authority or to a fund administered in connection with  
813 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such  
814 information were made public, the financial interest of the private person or entity would be adversely  
815 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of  
816 confidentiality.

817 62. Confidential proprietary records that are provided by a franchisee under § 15.2-2108 to its  
818 franchising authority pursuant to a promise of confidentiality from the franchising authority that relates  
819 to the franchisee's potential provision of new services, adoption of new technologies or implementation  
820 of improvements, where such new services, technologies or improvements have not been implemented  
821 by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were  
822 made public, the competitive advantage or financial interests of the franchisee would be adversely  
823 affected. In order for confidential proprietary information to be excluded from the provisions of this  
824 chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for  
825 which protection from disclosure is sought, (ii) identify the data or other materials for which protection  
826 is sought, and (iii) state the reason why protection is necessary.

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

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

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

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

845 67. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College  
846 Savings Plan or its employees by or on behalf of individuals who have requested information about,  
847 applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to  
848 Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit  
849 disclosure or publication of information in a statistical or other form that does not identify individuals or  
850 provide personal information. Individuals shall be provided access to their own personal information.

851 68. Any record copied, recorded or received by the Commissioner of Health in the course of an  
852 examination, investigation or review of a managed care health insurance plan licensee pursuant to  
853 §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or  
854 all computer or other recordings.

855 69. Engineering and architectural drawings, operational, procedural, tactical planning or training  
856 manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance  
857 techniques, personnel deployments, alarm systems or technologies, or operational and transportation  
858 plans or protocols, to the extent such disclosure would jeopardize the security or employee safety of (i)  
859 the Virginia Museum of Fine Arts or any of its warehouses; (ii) any government store or warehouse

controlled by the Department of Alcoholic Beverage Control; (iii) any courthouse, jail, detention or law-enforcement facility; or (iv) any correctional or juvenile facility or institution under the supervision of the Department of Corrections or the Department of Juvenile Justice.

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

71. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

72. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

73. Records of the Department for Rights of Virginians with Disabilities consisting of documentary evidence received or maintained by the Department or its agents in connection with specific complaints or investigations, and records of communications between employees and agents of the Department and its clients or prospective clients concerning specific complaints, investigations or cases. Upon the conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Department may not at any time release the identity of any complainant or person with mental illness, mental retardation, developmental disabilities or other disability, unless (i) such complainant or person or his legal representative consents in writing to such identification or (ii) such identification is required by court order.

74. Information furnished in confidence to the Department of Employment Dispute Resolution with respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title, and memoranda, correspondence and other records resulting from any such investigation, consultation or mediation. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

75. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

76. Records of the State Lottery Department pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations, and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

77. Records, information and statistical registries required to be kept confidential pursuant to §§ 63.1-53 and 63.1-209.

B. Neither any provision of this chapter nor any provision of Chapter 38 (§ 2.2-3800 et seq.) of this title shall be construed as denying public access to (i) contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 4. of subsection A; (ii) records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his favor in a criminal prosecution.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment,

921 appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public  
922 officers, appointees or employees of any public body; and evaluation of performance of departments or  
923 schools of public institutions of higher education where such evaluation will necessarily involve  
924 discussion of the performance of specific individuals. Any teacher shall be permitted to be present  
925 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that  
926 involves the teacher and some student and the student involved in the matter is present, provided the  
927 teacher makes a written request to be present to the presiding officer of the appropriate board.

928 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
929 involve the disclosure of information contained in a scholastic record concerning any student of any  
930 Virginia public institution of higher education or any state school system. However, any such student,  
931 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to  
932 be present during the taking of testimony or presentation of evidence at a closed meeting, if such  
933 student, parents or guardians so request in writing and such request is submitted to the presiding officer  
934 of the appropriate board.

935 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the  
936 disposition of publicly held real property, where discussion in an open meeting would adversely affect  
937 the bargaining position or negotiating strategy of the public body.

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

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

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

944 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual  
945 or probable litigation, where such consultation or briefing in open meeting would adversely affect the  
946 negotiating or litigating posture of the public body; and consultation with legal counsel employed or  
947 retained by a public body regarding specific legal matters requiring the provision of legal advice by such  
948 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been  
949 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe  
950 will be commenced by or against a known party. Nothing in this subdivision shall be construed to  
951 permit the closure of a meeting merely because an attorney representing the public body is in attendance  
952 or is consulted on a matter.

953 8. In the case of boards of visitors of public institutions of higher education, discussion or  
954 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts  
955 for services or work to be performed by such institution. However, the terms and conditions of any such  
956 gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign  
957 person and accepted by a public institution of higher education in Virginia shall be subject to public  
958 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
959 (i) "foreign government" means any government other than the United States government or the  
960 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity  
961 created under the laws of the United States or of any state thereof if a majority of the ownership of the  
962 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
963 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal  
964 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual  
965 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

970 11. Discussion or consideration of tests, examinations or other records excluded from this chapter  
971 pursuant to subdivision A. 11. of § 2.2-3705.

972 12. Discussion, consideration or review by the appropriate House or Senate committees of possible  
973 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement  
974 filed by the member, provided the member may request in writing that the committee meeting not be  
975 conducted in a closed meeting.

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

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



15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to subdivision A. 5. of § 2.2-3705, and those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation or Department of Health Professions conducted pursuant to § 2.2-4019 or § 2.2-4020 during which the board deliberates to reach a decision.

16. Discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivisions A. 37. and A. 38. of § 2.2-3705.

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

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

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

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

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

22. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

23. Those portions of meetings of the University of Virginia Board of Visitors *or the Eastern Virginia Medical School Board of Visitors, as the case may be*, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center *or Eastern Virginia Medical School, as the case may be*, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center *or Eastern Virginia Medical School, as the case may be*, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center *or Eastern Virginia Medical School, as the case may be*, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center *or Eastern Virginia Medical School, as the case may be*.

24. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

25. Those portions of the meetings of the Intervention Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

26. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

27. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12, related to the provision of

1044 wireless E-911 service.

1045 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
1046 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
1047 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation or  
1048 motion that shall have its substance reasonably identified in the open meeting.

1049 C. Public officers improperly selected due to the failure of the public body to comply with the other  
1050 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
1051 obtain notice of the legal defect in their election.

1052 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
1053 more public bodies, or their representatives, but these conferences shall be subject to the same  
1054 procedures for holding closed meetings as are applicable to any other public body.

1055 E. This section shall not be construed to (i) require the disclosure of any contract between the  
1056 Intervention Program Committee within the Department of Health Professions and an impaired  
1057 practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the  
1058 board of directors of any authority created pursuant to the Industrial Development and Revenue Bond  
1059 Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or  
1060 special law, to identify a business or industry to which subdivision A. 5. applies. However, such  
1061 business or industry shall be identified as a matter of public record at least thirty days prior to the actual  
1062 date of the board's authorization of the sale or issuance of such bonds.

1063 § 2.2-4343. Exemption from operation of chapter for certain transactions.

1064 A. The provisions of this chapter shall not apply to:

1065 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10  
1066 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by  
1067 the Board of Commissioners and approved by the Department of General Services, procedures to ensure  
1068 fairness and competitiveness in the procurement of goods and services and in the administration of its  
1069 capital outlay program. This exemption shall be applicable only so long as such policies and procedures  
1070 meeting the requirements remain in effect.

1071 2. The Virginia Retirement System for selection of services related to the management, purchase or  
1072 sale of authorized investments, including but not limited to actuarial services. Selection of these services  
1073 shall be governed by the standard set forth in § 51.1-124.30.

1074 3. The State Treasurer in the selection of investment management services related to the external  
1075 management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to  
1076 competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by  
1077 the Department of General Services.

1078 4. The Department of Social Services or local departments of social services for the acquisition of  
1079 motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

1080 5. The University of Virginia in the selection of services related to the management and investment  
1081 of its endowment funds. However, selection of these services shall be governed by the Uniform  
1082 Management of Institutional Funds Act (§ 55-268.1 et seq.) as required by § 23-76.1.

1083 6. The Board of the Virginia College Savings Plan for the selection of services related to the  
1084 operation and administration of the Plan, including, but not limited to, contracts or agreements for the  
1085 management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting  
1086 services. However, such selection shall be governed by the standard set forth in § 23-38.80.

1087 7. Public institutions of higher education for the purchase of Items for resale at retail bookstores and  
1088 similar retail outlets operated by such institutions. However, such purchase procedures shall provide for  
1089 competition where practicable.

1090 8. The purchase of goods and services by agencies of the legislative branch that may be specifically  
1091 exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the  
1092 Senate. Nor shall the contract review provisions of § 2.2-1303 apply to such procurements. The  
1093 exemption shall be in writing and kept on file with the agency's disbursement records.

1094 9. Any town with a population of less than 3,500, except as stipulated in the provisions of  
1095 §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and  
1096 2.2-4367 through 2.2-4377.

1097 10. Any county, city or town whose governing body has adopted, by ordinance or resolution,  
1098 alternative policies and procedures which are (i) based on competitive principles and (ii) generally  
1099 applicable to procurement of goods and services by such governing body and its agencies, except as  
1100 stipulated in subdivision 12.

1101 This exemption shall be applicable only so long as such policies and procedures, or other policies  
1102 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.  
1103 Such policies and standards may provide for incentive contracting which offers a contractor whose bid is  
1104 accepted the opportunity to share in any cost savings realized by the locality when project costs are  
1105 reduced by such contractor, without affecting project quality, during construction of the project. The fee,

if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 12, the provisions of subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services set forth in subdivision 3. a. of § 2.2-4301 in the definition of competitive negotiation shall also apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed \$30,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body which is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators which are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. The provisions of this chapter shall not apply to purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. *The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Management of Institutional Funds Act (§ 55-268.1 et seq.).*

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. (For expiration date - See note) The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection E of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

1. (Delayed effective date - See note) The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally

1167 advantageous to the public, or would constitute an imminent threat to the health or welfare of such  
1168 recipients. The writing shall document the basis for this determination.

1169 2. (Effective until July 1, 2003) The State Health Commissioner for the compilation, storage,  
1170 analysis, evaluation, and publication of certain data submitted by health care providers and for the  
1171 development of a methodology to measure the efficiency and productivity of health care providers  
1172 pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a  
1173 determination in advance, after reasonable notice to the public and set forth in writing, that competitive  
1174 sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public.  
1175 The writing shall document the basis for this determination. Such agreements and contracts shall be  
1176 based on competitive principles.

1177 3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146  
1178 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

1179 4. The Department of Alcoholic Beverage Control for the purchase of alcoholic beverages.

1180 5. The Department for the Aging, for the administration of elder rights programs, with (i) nonprofit  
1181 Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code with  
1182 statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii)  
1183 designated area agencies on aging.

1184 6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care  
1185 services with Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue  
1186 Code and operating as clinics for the indigent and uninsured that are organized for the delivery of  
1187 primary health care services in a community (i) as federally qualified health centers designated by the  
1188 Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c)  
1189 contracts with laboratories providing cytology and related services if competitive sealed bidding and  
1190 competitive negotiations are not fiscally advantageous to the public to provide quality control as  
1191 prescribed in writing by the Commissioner of Health.

1192 7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and  
1193 support of its production facilities, provided the procurement is accomplished using procedures that  
1194 ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone  
1195 quotations. Such procedures shall require documentation of the basis for awarding contracts under this  
1196 section.

1197 8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the  
1198 provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with  
1199 respect to the sale of food, beverages and souvenirs at such facilities.

1200 9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of  
1201 tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by  
1202 the Secretary of Education, can be realized by the Foundation and such agreements or contracts are  
1203 based on competitive principles.

1204 10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as  
1205 amended, of the Acts of Assembly of 1966.

1206 11. The Hospital Authority of Norfolk in the exercise of any power conferred under Chapter 53  
1207 (§ 15.2-5300 et seq.) of Title 15.2. The Authority shall not discriminate against any person on the basis  
1208 of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age,  
1209 marital status, or disability in the procurement of goods and services.

1210 12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of  
1211 Assembly of 2000.

1212 13. Public bodies for insurance or electric utility services if purchased through an association of  
1213 which it is a member if the association was formed and is maintained for the purpose of promoting the  
1214 interest and welfare of and developing close relationships with similar public bodies, provided such  
1215 association has procured the insurance or electric utility services by use of competitive principles and  
1216 provided that the public body has made a determination in advance after reasonable notice to the public  
1217 and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally  
1218 advantageous to the public. The writing shall document the basis for this determination.

1219 14. Public bodies administering public assistance programs as defined in § 63.1-87, the fuel  
1220 assistance program, community services boards as defined in § 37.1-1, or any public body purchasing  
1221 services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.2-5200 et seq.) or  
1222 the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) for goods or personal  
1223 services for direct use by the recipients of such programs if the procurement is made for an individual  
1224 recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be  
1225 exempted from the requirements of § 2.2-4303.

1226 15. *The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter*  
1227 *471, as amended, of the Acts of Assembly of 1964.*

1228 B. No contract for the construction of any building or for an addition to or improvement of an

existing building by any local government or subdivision of local government for which state funds of not more than \$30,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under of subsection D of § 2.2-4303. The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

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

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

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including, but not limited to, teacher/student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board and the Board shall prepare a budget for these educational programs which shall be solely supported by such general funds as are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be based on a ratio of one teacher for every twelve beds based on the capacity of the facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average daily attendance at the facility as calculated by the Department of Education from the previous school year.

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

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

§ 23-14. Certain educational institutions declared governmental instrumentalities; powers vested in majority of members of board.

The College of William and Mary in Virginia, at Williamsburg; the rector and visitors of Christopher Newport University, at Newport News; Longwood College, at Farmville; the Mary Washington College, at Fredericksburg; George Mason University, at Fairfax; the James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the Woodrow Wilson Rehabilitation Center, at Fishersville; the *Eastern Virginia Medical College of Hampton Roads School*; and the Southwest Virginia Higher Education Center are hereby classified as educational institutions and are declared to be public bodies and constituted as governmental instrumentalities for the dissemination of education. The powers of every such institution derived directly or indirectly from this chapter shall be vested in and exercised by a majority of the members of its board, and a majority of such board shall be a quorum for the transaction of any business authorized by this chapter. Wherever the word "board" is used in this chapter, it shall be deemed to include the members of a governing body designated by another title.

§ 32.1-122.6. Conditional grants for certain medical students.

A. With such funds as are appropriated for this purpose, the Board of Health shall establish annual medical scholarships for students who intend to enter the designated specialties of family practice medicine, general internal medicine, pediatrics, and obstetrics/gynecology for students in good standing at the Medical College of Virginia of Virginia Commonwealth University, the University of Virginia School of Medicine, and the *Eastern Virginia Medical College of Hampton Roads School*. No recipient shall be awarded more than five scholarships. The amount and number of such scholarships and the apportionment of the scholarships among the medical schools shall be determined annually as provided

1290 in the appropriation act; however, the Board shall reallocate annually any remaining funds from awards  
1291 made pursuant to this section and § 32.1-122.5:1 among the schools participating in these scholarship  
1292 programs, proportionally to their need, for additional medical scholarships for eligible students. The  
1293 Commissioner shall act as fiscal agent for the Board in administration of the scholarship funds.

1294 The governing boards of Virginia Commonwealth University, the University of Virginia, and the  
1295 ~~Eastern Virginia Medical College of Hampton Roads School~~ shall submit to the Commissioner the  
1296 names of those eligible applicants who are most qualified as determined by the regulations of the Board  
1297 for these medical scholarships. The Commissioner shall award the scholarships to the applicants whose  
1298 names are submitted by the governing boards.

1299 B. The Board, after consultation with the Medical College of Virginia of *Virginia Commonwealth*  
1300 *University*, the University of Virginia School of Medicine, and the *Eastern Virginia Medical College of*  
1301 ~~Hampton Roads School~~, shall promulgate regulations to administer this scholarship program which shall  
1302 include, but not be limited to:

1303 1. Qualifications of applicants;

1304 2. Criteria for award of the scholarships to assure that recipients will fulfill the practice obligations  
1305 established in this section;

1306 3. Standards to assure that these scholarships increase access to primary health care for individuals  
1307 who are indigent or who are recipients of public assistance;

1308 4. Assurances that bona fide residents of Virginia, as determined by § 23-7.4, students of  
1309 economically disadvantaged backgrounds and residents of medically underserved areas are given  
1310 preference over nonresidents in determining scholarship eligibility and awards;

1311 5. Assurances that scholarship recipients will begin medical practice in one of the designated  
1312 specialties in an underserved area of the Commonwealth within two years following completion of their  
1313 residencies;

1314 6. Methods for reimbursement of the Commonwealth by recipients who fail to complete medical  
1315 school or who fail to honor the obligation to engage in medical practice for a period of years equal to  
1316 the number of annual scholarships received;

1317 7. Procedures for reimbursing any recipient who has repaid the Commonwealth for part or all of any  
1318 scholarship and who later fulfills the terms of his contract;

1319 8. Procedures for transferring unused funds upon the recommendation of the Commissioner and the  
1320 approval of the Department of Planning and Budget in the event any of the medical schools has not  
1321 recommended the award of its full complement of scholarships by January of each year and one or both  
1322 of the other medical schools has a demonstrated need for additional scholarships for that year; and

1323 9. Reporting of data related to the recipients of the scholarships by the medical schools.

1324 C. Prior to the award of any scholarship, the applicant shall sign a contract in which he agrees to  
1325 pursue the medical course of the school nominating him for the award until his graduation or to pursue  
1326 his first year of postgraduate training at the hospital or institution approved by the school nominating  
1327 him for the award and upon completing a term not to exceed three years, or four years for the  
1328 obstetric/gynecology specialty, as an intern or resident at an approved institution or facility intends to  
1329 promptly begin and thereafter engage continuously in one of the designated specialties of medical  
1330 practice in an underserved area in Virginia for a period of years equal to the number of annual  
1331 scholarships received. The contract shall specify that no form of medical practice such as military  
1332 service or public health service may be substituted for the obligation to practice in one of the designated  
1333 specialties in an underserved area in the Commonwealth.

1334 The contract shall provide that the applicant will not voluntarily obligate himself for more than the  
1335 minimum period of military service required for physicians by the laws of the United States and that,  
1336 upon completion of this minimum period of obligatory military service, the applicant will promptly  
1337 begin to practice in an underserved area in one of the designated specialties for the requisite number of  
1338 years. The contract shall include other provisions as considered necessary by the Attorney General and  
1339 the Commissioner.

1340 The contract may be terminated by the recipient while the recipient is enrolled in medical school  
1341 upon providing notice and immediate repayment of the total amount of scholarship funds received plus  
1342 interest at the prevailing bank rate for similar amounts of unsecured debt.

1343 D. In the event the recipient fails to maintain a satisfactory scholastic standing, the recipient may,  
1344 upon certification of the Commissioner, be relieved of the obligations under the contract to engage in  
1345 medical practice in an underserved area upon repayment to the Commonwealth of the total amount of  
1346 scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured  
1347 debt.

1348 E. In the event the recipient dies or becomes permanently disabled so as not to be able to engage in  
1349 the practice of medicine, the recipient or his estate may, upon certification of the Commissioner, be  
1350 relieved of the obligation under the contract to engage in medical practice in an underserved area upon  
1351 repayment to the Commonwealth of the total amount of scholarship funds plus interest on such amount

computed at eight percent per annum from the date of receipt of scholarship funds. This obligation may be waived in whole or in part by the Commissioner in his discretion upon application by the recipient or his estate to the Commissioner with proof of hardship or inability to pay.

F. Except as provided in subsections D and E, any recipient of a scholarship who fails or refuses to fulfill his obligation to practice medicine in one of the designated specialties in an underserved area for a period of years equal to the number of annual scholarships received shall reimburse the Commonwealth three times the total amount of the scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt. If the recipient has fulfilled part of his contractual obligations by serving in an underserved area in one of the designated specialties, the total amount of the scholarship funds received shall be reduced by the amount of the annual scholarship multiplied by the number of years served.

G. The Commissioner shall collect all repayments required by this section and may establish a schedule of payments for reimbursement consistent with the regulations of the Board. No schedule of payments shall amortize the total amount due for a period of longer than two years following the completion of the recipient's postgraduate training or the recipient's entrance into the full-time practice of medicine, whichever is later. All such funds, including any interest thereon, shall be used only for the purposes of this section and shall not revert to the general fund. If any recipient fails to make any payment when and as due, the Commissioner shall notify the Attorney General. The Attorney General shall take such action as he deems proper. In the event court action is required to collect a delinquent scholarship account, the recipient shall be responsible for the court costs and reasonable attorneys' fees incurred by the Commonwealth in such collection.

H. For purposes of this section, the term "underserved area" shall include those medically underserved areas designated by the Board pursuant to § 32.1-122.5 and health professional shortage areas designated in accordance with the criteria established in 42 C.F.R. Part 5.

§ 32.1-279. Duties of Chief Medical Examiner; teaching legal medicine.

A. The Chief Medical Examiner shall carry out the provisions of this article under the direction of the Commissioner. The central and district offices and facilities established as provided in § 32.1-277 shall be under the supervision of the Chief Medical Examiner.

B. The Chief Medical Examiner and his assistants shall be available to Virginia Commonwealth University, the University of Virginia, the *Eastern Virginia Medical College of Hampton Roads School*, and other institutions of higher education providing instruction in health science or law for teaching legal medicine and other subjects related to their duties.

§ 54.1-2961. Interns and residents in hospitals.

A. Interns and residents holding temporary licenses may be employed in a legally established and licensed hospital, medical school or other organization operating an approved graduate medical education program when their practice is confined to persons who are bona fide patients within the hospital or other organization or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated with the graduate medical education program.

B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in subsection D and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program. No intern or resident holding a temporary license may be employed by any hospital or other organization operating an approved graduate medical education program unless he has completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice.

C. No intern or resident holding a temporary license shall serve in any hospital or other organization operating an approved graduate medical education program in this Commonwealth for longer than the time prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict with existing law and require such reports from hospitals or other organizations in the Commonwealth as may be necessary to carry out the provisions of this section.

D. Such employment shall be a part of an internship or residency training program approved by the Accreditation Council for Graduate Medical Education or American Osteopathic Association or American Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be employed as an intern or resident by any hospital or other organization operating an approved graduate medical education program. The Board may determine the extent and scope of the duties and professional services which may be rendered by interns and residents.

E. The Board of Medicine shall adopt guidelines concerning the ethical practice of surgeons and surgery interns and residents in hospitals or other organizations operating graduate medical education programs. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of Virginia Commonwealth University, the University of Virginia

**1413** School of Medicine, and the *Eastern Virginia Medical College of Hampton Roads School* shall  
**1414** cooperate with the Board in the development of these guidelines.

**1415** The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from  
**1416** all patients, after such patients are informed as to which surgeons, residents, or interns will perform the  
**1417** surgery; (ii) except in emergencies and other unavoidable situations, the need, consistent with the  
**1418** informed consent, for a surgeon to be present during the procedure; and (iii) policies to avoid situations,  
**1419** unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant  
**1420** hospital, medical school or other organization operating the graduate medical education program, in  
**1421** which a surgeon, intern or resident represents that he will perform a procedure which he then fails to  
**1422** perform.

**1423** F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.

**1424** **2. That an emergency exists and this act is in force from its passage.**