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## HOUSE BILL NO. 2365

Offered January 8, 2003

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*A BILL to amend and reenact §§ 32.1-123 through 32.1-125.1, 32.1-126, 32.1-127, 32.1-129, 32.1-130, 32.1-131, 32.1-133, and 32.1-135 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-125.4, relating to regulation and licensure of abortion clinics.*

Patrons—Marshall, R.G. and Black

Referred to Committee on Health, Welfare and Institutions

Whereas, the General Assembly of Virginia finds that many abortions are performed in clinics devoted solely to providing abortions and birth control services and that most women who seek abortions at these facilities have no relationship, before or after the abortion, with the physician who performs the abortion; and

Whereas, the General Assembly of Virginia also finds that the psychological, emotional, and medical consequence of abortion are profound and can be permanent; and

Whereas, as enunciated by the Supreme Court in Planned Parenthood of Southeastern Pennsylvania v. Casey, "the abortion decision . . . is more than a philosophic exercise. Abortion is a unique act. It is an act fraught with consequences for others: for the woman who must live with the implications of her decision; for the spouse, family, and society which must confront the knowledge that these procedures exist, procedures some deem nothing short of an act of violence against innocent human life; and, depending on one's beliefs, for the life or potential life that is aborted"; and

Whereas, abortion is an invasive, surgical procedure that can lead to numerous and serious medical complications. Potential complications for first trimester abortions include, among others, bleeding, hemorrhage, infection, uterine perforation, blood clots, cervical tears, incomplete abortion (retained tissue), failure to actually terminate the pregnancy, free fluid in the abdomen, acute abdomen, missed ectopic pregnancies, cardiac arrest, sepsis, respiratory arrest, reactions to anesthesia, fertility problems, emotional problems, and even death; and

Whereas, the Commonwealth has a legitimate concern for the public's health and safety, a legitimate interest "from the outset of pregnancy in protecting the health of women," and a "legitimate concern with the health of women who undergo abortions," as established in various case law, including Williamson v. Lee Optical, Planned Parenthood of Southeastern Pennsylvania v. Casey, Akron v. Akron Ctr. for Reproductive Health, Inc., and Roe v. Wade; and

WHEREAS, in view of the Supreme Court's recognition of the "particular gravitas of the moral, psychological, and familial aspects of the abortion decision" in Greenville Women's Clinic v. Bryant, the General Assembly purposes this act to protect the public health through the regulation of abortion clinics by establishing and enforcing standards of care for abortion that are consistent with and to the extent permitted by the decisions of the Supreme Court of the United States; now, therefore,

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

**1. That §§ 32.1-123 through 32.1-125.1, 32.1-126, 32.1-127, 32.1-129, 32.1-130, 32.1-131, 32.1-133, and 32.1-135 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 32.1-125.4 as follows:**

§ 32.1-123. Definitions.

As used in this article unless a different meaning or construction is clearly required by the context or otherwise:

"Abortion" means an act of using or prescribing RU 486 or its equivalents, or any instrument, machine or device with the intent to terminate a woman's pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of a child, after a live birth, to treat an ectopic pregnancy or to remove a dead fetus.

"Abortion clinic" means any facility, other than a hospital as defined herein, in which 25 or more first trimester abortions are performed in any calendar year.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Class I violation" means failure of a nursing home or certified nursing facility to comply with one or more requirements of state or federal law or regulations which creates a situation that presents an immediate and serious threat to patient health or safety.

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59 "Class II violation" means a pattern of noncompliance by a nursing home or certified nursing facility  
60 with one or more federal conditions of participation which indicates delivery of substandard quality of  
61 care but does not necessarily create an immediate and serious threat to patient health and safety.  
62 Regardless of whether the facility participates in Medicare or Medicaid, the federal conditions of  
63 participation shall be the standards for Class II violations.

64 "Hospital" means any facility licensed pursuant to this article in which the primary function is the  
65 provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for  
66 two or more nonrelated individuals, including hospitals known by varying nomenclature or designation  
67 such as sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term,  
68 outpatient surgical, and inpatient or outpatient maternity hospitals.

69 "Immediate and serious threat" means a situation or condition having a high probability that serious  
70 harm or injury to patients could occur at any time, or already has occurred, and may occur again, if  
71 patients are not protected effectively from the harm, or the threat is not removed.

72 "Inspection" means all surveys, inspections, investigations and other procedures necessary for the  
73 Department of Health to perform in order to carry out various obligations imposed on the Board or  
74 Commissioner by applicable state and federal laws and regulations.

75 "Nursing home" means any facility or any identifiable component of any facility licensed pursuant to  
76 this article in which the primary function is the provision, on a continuing basis, of nursing services and  
77 health-related services for the treatment and inpatient care of two or more nonrelated individuals,  
78 including facilities known by varying nomenclature or designation such as convalescent homes, skilled  
79 nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing  
80 or nursing care facilities.

81 "Nonrelated" means not related by blood or marriage, ascending or descending or first degree full or  
82 half collateral.

83 "Substandard quality of care" means deficiencies in practices of patient care, preservation of patient  
84 rights, environmental sanitation, physical plant maintenance, or life safety which, if not corrected, will  
85 have a significant harmful effect on patient health and safety.

86 § 32.1-124. Exemptions.

87 The provisions of §§ 32.1-123 through 32.1-136 shall not be applicable to: (i) a dispensary or  
88 first-aid facility maintained by any commercial or industrial plant, educational institution or convent; (ii)  
89 an institution licensed by the State Mental Health, Mental Retardation and Substance Abuse Services  
90 Board; (iii) an institution or portion thereof licensed by the State Board of Social Services; (iv) a  
91 hospital or nursing home owned or operated by an agency of the United States government; (v) an  
92 office of one or more physicians or surgeons unless such office is used principally for performing  
93 surgery; ~~and~~ (vi) a hospital or nursing home, as defined in § 32.1-123, owned or operated by an agency  
94 of the Commonwealth unless such hospital or nursing home or portion thereof is certified as a nursing  
95 facility pursuant to § 32.1-137; *and (vii) an office of one or more physicians unless such office is used*  
96 *for performing 25 or more abortions in any calendar year.*

97 § 32.1-125. Establishment or operation of abortion clinics, hospitals, and nursing homes prohibited  
98 without license or certification; licenses not transferable.

99 A. No person shall own, establish, conduct, maintain, manage or operate in this Commonwealth any  
100 *abortion clinic*, hospital or nursing home unless such *abortion clinic*, hospital or nursing home is  
101 licensed or certified as provided in this article.

102 B. No license issued hereunder shall be assignable or transferable.

103 C. *On and after July 1, 2003, no proposed abortion clinic shall operate in this Commonwealth*  
104 *unless such abortion clinic is licensed by the Board; abortion clinics operating prior to July 1, 2003,*  
105 *shall apply within 90 days of the effective date of the Board's final regulations. The Board shall*  
106 *promulgate regulations for the licensure of abortion clinics pursuant to the Administrative Process Act*  
107 *(§ 2.2-4000 et seq.) that shall include the minimum standards required by § 32.1-125.4.*

108 D. *An application for a license as an abortion clinic shall be made to the Department on forms*  
109 *established by the Board and shall contain such information as the Board reasonably requires, which*  
110 *may include affirmative evidence of the ability to comply with the reasonable standards and regulations*  
111 *promulgated by the Board. Additional information may be required as determined by the Department.*

112 E. *A temporary or provisional license may be issued to an abortion clinic for a period of 6 months*  
113 *in cases where sufficient compliance with the Board's minimum standards and regulations require an*  
114 *extension of time, so long as disapproval has not been received from any other agency otherwise*  
115 *authorized to inspect the facility. The failure to comply shall not be detrimental to the health and safety*  
116 *of public.*

117 § 32.1-125.1. Inspection of abortion clinics or hospitals by state agencies generally.

118 A. As used in this section unless the context requires a different meaning, *abortion clinic* or  
119 "hospital" means *an abortion clinic as defined in § 32.1-123* or a hospital as defined in § 32.1-123 or  
120 § 37.1-1.

B. State agencies shall make or cause to be made only such inspections of hospitals as are necessary to carry out the various obligations imposed on each agency by applicable state and federal laws and regulations. Any on-site inspection by a state agency or a division or unit thereof that substantially complies with the inspection requirements of any other state agency or any other division or unit of the inspecting agency charged with making similar inspections shall be accepted as an equivalent inspection in lieu of an on-site inspection by said agency or by a division or unit of the inspecting agency. A state agency shall coordinate its hospital inspections both internally and with those required by other state agencies so as to ensure that the requirements of this section are met.

C. Notwithstanding any provision of law to the contrary, all hospitals licensed by the Department of Health or Department of Mental Health, Mental Retardation and Substance Abuse Services which have been certified under the provisions of Title XVIII of the Social Security Act for hospital or psychiatric services or which have obtained accreditation from the Joint Commission on Accreditation of Healthcare Organizations may be subject to inspections so long as such certification or accreditation is maintained but only to the extent necessary to ensure the public health and safety.

*D. The Board shall establish policies and procedures for conducting prelicensure and relicensure inspections of abortion clinics. Prior to issuing or reissuing a license, the Department shall conduct an onsite inspection to ensure compliance with the minimum Standards promulgated by the Board.*

*§ 32.1-125.4. Minimum standards for licensure of abortion clinics.*

A. The Board of Health shall promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) establishing minimum standards for licensure of abortion clinics, including:

1. Adequate private space that is specifically designated for interviewing, counseling and medical evaluations;

2. Dressing rooms for staff and patients;

3. Appropriate lavatory areas;

4. Areas for preprocedure hand washing;

5. Private procedures rooms;

6. Adequate lighting and ventilation for abortion procedures;

7. Surgical or gynecological examination tables and other fixed equipment;

8. Postprocedure recovery rooms that are supervised, staffed, and equipped to meet the patients' needs;

9. Emergency exits to accommodate a stretcher or gurney;

10. Areas for cleaning and sterilizing instruments;

11. Adequate areas for the secure storage of medical records and necessary equipment and supplies; and

12. The display in the abortion clinic, in a place that is conspicuous to all patients, of the clinic's current license issued by the Board.

B. The Board shall include in such regulations requirements for abortion clinic supplies and equipment standards, including supplies and equipment that are required to be immediately available for use in an emergency. At a minimum, such supply and equipment standards shall:

1. Prescribe required equipment and supplies including medications required for the conduct, in an appropriate fashion, of any abortion procedure that the medical staff of the clinic anticipates performing and for monitoring the progress of each patient throughout the procedure and recovery period;

2. Require that the number or amount of equipment and supplies at the clinic is adequate at all times to assure sufficient quantities of clean and sterilized durable medical equipment and supplies to meet the needs of each patient;

3. Prescribe required equipment, supplies, and medications that shall be available and ready for immediate use in an emergency and requirements for written protocols and procedures to be followed by staff in an emergency, such as the loss of electrical power;

4. Prescribe required equipment and supplies for required laboratory tests and requirements for protocols to calibrate and maintain laboratory equipment at the abortion clinic or operated by clinic staff;

5. Require ultrasound equipment; and

6. Require that all equipment is safe for the patient and the staff, meets applicable federal standards, and is checked annually to ensure safety and appropriate calibration.

C. The Board shall also promulgate regulations relating to the requirements for abortion clinic personnel. At a minimum, these regulations shall require that:

1. The abortion clinic designates a medical director for the abortion clinic who is licensed by and in good standing with the Board of Medicine;

2. Physicians performing surgery demonstrate competence in the procedure involved and are acceptable to the medical director of the abortion clinic;

3. A physician with admitting privileges at a hospital be available at all times;

182 4. If a physician is not present, a registered nurse, nurse practitioner, licensed practical nurse or  
183 physician's assistant is present and remains at the clinic when abortions are performed to provide  
184 postoperative monitoring and care until each patient who has had an abortion during that day is  
185 discharged;

186 5. Surgical assistants receive training in counseling, patient advocacy, and the specific  
187 responsibilities of the services that such surgical assistants provide; and

188 6. Volunteers receive training in the specific responsibilities of the services the volunteers provide,  
189 including counseling and patient advocacy as provided in the Board's regulations for different types of  
190 volunteers based on their responsibilities.

191 D. The Board shall further promulgate regulations relating to the medical screening and evaluation  
192 of each abortion clinic patient. At a minimum these regulations shall require:

193 1. A medical history that includes reported allergies to medications, antiseptic solutions or latex;  
194 obstetric and gynecologic history; and past surgeries;

195 2. A physical examination that includes a bimanual examination estimating uterine size and palpation  
196 of the adnexa;

197 3. The appropriate laboratory tests, including, for an abortion in which an ultrasound examination is  
198 not performed prior to the procedures, urine or blood tests for pregnancy performed before the abortion  
199 procedure; a test for anemia; Rh typing, unless reliable written documentation of blood type is  
200 available; and other tests as indicated by the physical examination;

201 4. An ultrasound evaluation for all patients. The regulations shall require that, if a person who is  
202 not a physician performs an ultrasound examination, that person shall have documented evidence that  
203 the person completed a course in the operation of ultrasound equipment. The physician or other health  
204 care professional shall review, at the request of the patient, the ultrasound evaluation results with the  
205 patient before the abortion procedure is performed, including the probable gestational age of the fetus;  
206 and

207 5. That the physician is responsible for estimating the gestational age of the fetus based on the  
208 ultrasound examination and obstetric standards in keeping with established standards of care regarding  
209 the estimation of fetal age as prescribed by the Board and shall write the estimate in the patient's  
210 medical history. The physician shall keep original prints of each ultrasound examination of a patient in  
211 the patient's medical history file.

212 E. The Board shall promulgate regulations relating to the abortion procedures. At a minimum, these  
213 regulations shall require:

214 1. That medical personnel are available to all patients throughout the abortion procedure;

215 2. Conformance with standards for the safe conduct of abortion procedures that conform to obstetric  
216 standards in keeping with established standards of care regarding the estimation of fetal age as defined  
217 in regulations;

218 3. Appropriate use of local anesthesia, analgesia and sedation if ordered by the physician;

219 4. The use of appropriate precautions, such as the establishment of intravenous access at least for  
220 patients undergoing second or third trimester abortions; and

221 5. The use of appropriate monitoring of the vital signs and other defined signs and markers of the  
222 patient's status throughout the abortion procedure and during the recovery period until the patient's  
223 condition is deemed to be stable in the recovery room.

224 F. The Board shall promulgate regulations relating to the minimum recovery room standards. At a  
225 minimum, these regulations shall require that:

226 1. Immediate postprocedure care consists of observation in a supervised recovery room for as long  
227 as the patient's condition warrants;

228 2. The clinic arrange hospitalization if any complication beyond the management capability of the  
229 staff occurs or is suspected;

230 3. A licensed health professional who is trained in the management of the recovery area and is  
231 capable of providing basic cardiopulmonary resuscitation and related emergency procedures remains on  
232 the premises of the abortion clinic until all patients are discharged;

233 4. A physician with admitting privileges at an accredited hospital in this state remains on the  
234 premises of the abortion clinic until all patients are stable and are ready to leave the recovery room  
235 and to facilitate the transfer of emergency cases if hospitalization of the patient or viable fetus is  
236 necessary. A physician shall sign the discharge order and be readily accessible and available until the  
237 last patient is discharged;

238 5. A physician discusses Rho (D) immune globulin with each patient for whom it is indicated and  
239 ensures that it is offered to the patient in the immediate postoperative period or that it will be available  
240 to her within 72 hours after completion of the abortion procedure. If the patient refuses, a refusal form  
241 approved by the Board shall be signed by the patient and a witness and included in the medical record;

242 6. Written instructions with regard to postabortion coitus, signs of possible problems and general  
243 aftercare are given to each patient. Each patient shall have specific instructions regarding access to

medical care for complications, including a telephone number to call for medical emergencies;

7. There is a specified minimum length of time that a patient remains in the recovery room by type of abortion procedure and duration of gestation;

8. The physician assures that a licensed health professional from the abortion clinic makes a good faith effort to contact the patient by telephone, with the patient's consent, within 24 hours after surgery to assess the patient's recovery; and

9. Equipment and services are located in the recovery room to provide appropriate emergency resuscitative and life support procedures pending the transfer of the patient or viable fetus to the hospital.

G. The Board shall promulgate regulations relating to the standards for follow-up visits. At a minimum, these regulations shall require that:

1. A post abortion medical visit is offered and, if requested, scheduled for 3 weeks after the abortion, including a medical examination and a review of the results of all laboratory tests; and

2. A urine pregnancy test is obtained at the time of the follow-up visit to rule out continuing pregnancy. If a continuing pregnancy is suspected, the patient shall be evaluated and a physician who performs abortions shall be consulted.

H. The Board shall promulgate regulations to prescribe minimum abortion clinic incident reporting. At a minimum, these regulations shall require that:

1. The abortion clinic records each incident resulting in a patient's or viable fetus' serious injury occurring at an abortion clinic and shall report them in writing to the Board within 10 days after the incident. For the purposes of this subdivision, "serious injury" means an injury that occurs at an abortion clinic and that creates a serious risk of substantial impairment of a major body organ;

2. If a patient's death occurs, other than a fetal death properly reported pursuant to law, the abortion clinic reports it to the Board not later than the next Board work day; and

3. Incident reports shall be filed with the Board and appropriate professional regulatory boards.

I. The Board shall promulgate regulations relating to the release of personally identifiable patient or physician information that protect the privacy of the patients and provide for the disclosure of protected health information in compliance with state and federal laws and regulations.

J. The regulations adopted by the Board pursuant to this section shall not limit the ability of a physician or other health professional to advise a patient on any health issue.

K. The provisions of this chapter and the Board's regulations shall be in addition to any other laws and regulations applicable to abortion clinics, as defined in § 32.1-123.

§ 32.1-126. Commissioner to inspect and to issue licenses to or assure compliance with certification requirements for abortion clinics, hospitals, nursing homes and certified nursing facilities; notice of denial of license; consultative advice and assistance.

A. Pursuant to this article, the Commissioner shall issue licenses to, and assure compliance with certification requirements for *abortion clinics*, hospitals and nursing homes, and assure compliance with certification requirements for facilities owned or operated by agencies of the Commonwealth as defined in subdivision (vi) of § 32.1-124, which after inspection are found to be in compliance with the provisions of this article and with all applicable state and federal regulations. The Commissioner shall notify by certified mail or by overnight express mail any applicant denied a license of the reasons for such denial.

B. The Commissioner shall cause each and every *abortion clinic*, hospital, nursing home, and certified nursing facility to be inspected periodically, but not less often than biennially, in accordance with the provisions of this article and regulations of the Board.

Unless expressly prohibited by federal statute or regulation, the findings of the Commissioner, with respect to periodic surveys of nursing facilities conducted pursuant to the Survey, Certification, and Enforcement Procedures set forth in 42 C.F.R. Part 488, shall be considered case decisions pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to the Department's informal dispute resolution procedures, or, at the option of the Department or the nursing facility, the formal fact-finding procedures under § 2.2-4020. The Commonwealth shall be deemed the proponent for purposes of § 2.2-4020. Further, notwithstanding the provisions of clause (iii) of § 2.2-4025, such case decisions shall also be subject to the right to court review pursuant to Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

C. The Commissioner may, in accordance with regulations of the Board, provide for consultative advice and assistance, with such limitations and restrictions as he deems proper, to any person who intends to apply for an *abortion clinic*, a hospital or nursing home license or nursing facility certification.

D. Upon determining that any *abortion clinic* is in violation of this chapter, any other Virginia law or any regulation promulgated by an agency of this Commonwealth or any federal law or regulation, the Board may, upon proper notice, deny, suspend, or revoke its license, or pursue the remedies

305 *provided in § 32.1-27, such as injunction, mandamus or other appropriate remedy, including, but not*  
306 *limited to, one or more of the civil or criminal penalties set forth therein. Each day of violation shall*  
307 *constitute a separate offense for purposes of assessing civil or criminal penalties. Appeals of such*  
308 *actions may be made in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).*

309 *In determining the imposition of civil or criminal penalties, the following factors shall be considered*  
310 *by the Board or any court of competent jurisdiction:*

311 *1. The gravity of the violation, including the probability that death or serious physical harm to a*  
312 *patient or individual could result or has resulted;*

313 *2. The size of the population at risk as a consequence of the violation;*

314 *3. The severity and scope of the actual or potential harm;*

315 *4. The extent to which the provisions of the applicable statutes or regulations were violated;*

316 *5. Any indications of good faith exercised by the licensee;*

317 *6. The duration, frequency, and relevance of any previous violations committed by the licensee; and*

318 *7. The financial benefit to the licensee of committing or continuing to commit the violation.*

319 § 32.1-127. Regulations.

320 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in  
321 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as  
322 established and recognized by medical and health care professionals and by specialists in matters of  
323 public health and safety, including health and safety standards established under provisions of Title  
324 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.)  
325 of this chapter.

326 B. Such regulations:

327 1. Shall include minimum standards for (i) the construction and maintenance of *abortion clinics*,  
328 hospitals, nursing homes and certified nursing facilities to assure the environmental protection and the  
329 life safety of its patients and employees and the public; (ii) the operation, staffing and equipping of  
330 *abortion clinics*, hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training  
331 of staff of *abortion clinics*, hospitals, nursing homes and certified nursing facilities, except those  
332 professionals licensed or certified by a *health regulatory board* within the Department of Health  
333 Professions; and (iv) conditions under which an *abortion clinic*, a hospital or nursing home may provide  
334 medical and nursing services to patients in their places of residence;

335 2. Shall provide that at least one physician who is licensed to practice medicine in this  
336 Commonwealth shall be on call at all times, though not necessarily physically present on the premises,  
337 at each hospital which operates or holds itself out as operating an emergency service;

338 3. May classify hospitals and nursing homes by type of specialty or service and may provide for  
339 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

340 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with  
341 federal law and the regulations of the Health Care Financing Administration (HCFA), particularly 42  
342 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization  
343 designated in HCFA regulations for routine contact, whereby the provider's designated organ  
344 procurement organization certified by HCFA the *Centers for Medicare and Medicaid Services* (i) is  
345 notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is  
346 authorized to determine the suitability of the decedent or patient for organ donation and, in the absence  
347 of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank  
348 Association of America or the American Association of Tissue Banks, the suitability for tissue and eye  
349 donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye  
350 bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes  
351 to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference  
352 with organ procurement. The protocol shall ensure that the hospital collaborates with the designated  
353 organ procurement organization to inform the family of each potential donor of the option to donate  
354 organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have  
355 completed a course in the methodology for approaching potential donor families and requesting organ or  
356 tissue donation that (i) is offered or approved by the organ procurement organization and designed in  
357 conjunction with the tissue and eye bank community and (ii) encourages discretion and sensitivity  
358 according to the specific circumstances, views, and beliefs of the relevant family. In addition, the  
359 hospital shall work cooperatively with the designated organ procurement organization in educating the  
360 staff responsible for contacting the organ procurement organization's personnel on donation issues, the  
361 proper review of death records to improve identification of potential donors, and the proper procedures  
362 for maintaining potential donors while necessary testing and placement of potential donated organs,  
363 tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the  
364 relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer  
365 of the hospital or his designee knows of such opposition, and no donor card or other relevant document,  
366 such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each *abortion clinic* and each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be based on Joint Commission on Accreditation of Healthcare Organizations' standards;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.1-55.3 on such reporting procedures and the consequences for failing to make a required report; and

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed seventy-two hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

§ 32.1-129. Application for license.

Each application for an *abortion clinic*, a hospital or nursing home license shall be made on a form prescribed by the Board. The application shall specify the *abortion clinic's*, *hospital's* or *nursing home's* official name and the kind of hospital or nursing home, the location thereof, the name of the person in charge, and such additional relevant information as the Board requires.

A license for an *abortion clinic* shall apply only to the location and licensee stated on the application, and shall not be transferable from one place to another or from one person to another. If the location of an *abortion clinic* is changed, the license shall be automatically revoked. A new application shall be completed, submitted, and approved prior to any license renewal.

§ 32.1-130. Service charges for hospitals and nursing homes; licensure fees for abortion clinics.

A. A service charge of \$1.50 per patient bed for which the hospital or nursing home is licensed, but not less than \$75 nor more than \$500, shall be paid for each license upon issuance and renewal. The service charge for a license for a hospital or nursing home which does not provide overnight inpatient

428 care shall be \$75.

429 B. All service charges received under the provisions of ~~this article~~ *subsections A and C* shall be paid  
430 into a special fund of the Department and are appropriated to the Department for the operation of the  
431 *abortion clinic*, hospital and nursing home licensure and inspection program.

432 C. *All abortion clinics shall submit, in accordance with the Board's regulations, such licensure fees*  
433 *as may be required to support the costs of the abortion clinic licensure and inspection program.*

434 § 32.1-131. Expiration and renewal of licenses.

435 All licenses *for abortion clinics, hospitals, and nursing homes* shall expire at midnight December 31  
436 of the year issued, or as otherwise specified, and shall be required to be renewed annually.

437 § 32.1-133. Display of license.

438 The current license *for all abortion clinics, hospitals, and nursing homes* shall at all times be posted  
439 in each *abortion clinic*, hospital or nursing home in a place readily visible and accessible to the public.

440 § 32.1-135. Revocation or suspension of license or certification; restriction or prohibition of new  
441 admissions to nursing home or on the operation of an abortion clinic.

442 A. In accordance with applicable regulations of the Board, the Commissioner (i) may restrict or  
443 prohibit new admissions to any nursing home or certified nursing facility *or the operation of any*  
444 *abortion clinic*, or (ii) may petition the court to impose a civil penalty against any nursing home or  
445 certified nursing facility *or abortion clinic* or to appoint a receiver for ~~such~~ a nursing home or certified  
446 nursing facility, or, *in the case of a nursing home or certified nursing facility*, both, or (iii) may revoke  
447 the certification or may revoke or suspend the license of *an abortion clinic*, a hospital or nursing home  
448 or the certification of any certified nursing facility for violation of any provision of this article or Article  
449 2 (§ 32.1-138 et seq.) of this chapter or of any applicable regulation promulgated under this chapter or  
450 for permitting, aiding, or abetting the commission of any illegal act in the *abortion clinic*, hospital or  
451 nursing home.

452 All appeals from notice of imposition of administrative sanctions shall be received in writing within  
453 fifteen days of the date of receipt of such notice. The provisions of the Administrative Process Act  
454 (§ 2.2-4000 et seq.) shall be applicable to such appeals.

455 B. If a license or certification is revoked as herein provided, a new license or certification may be  
456 issued by the Commissioner after satisfactory evidence is submitted to him that the conditions upon  
457 which revocation was based have been corrected and after proper inspection has been made and  
458 compliance with all provisions of this article and applicable state and federal law and regulations  
459 hereunder has been obtained.

460 C. Suspension of a license shall in all cases be for an indefinite time. The Commissioner may  
461 completely or partially restore a suspended license or certificate when he determines that the conditions  
462 upon which suspension was based have been completely or partially corrected and that the interests of  
463 the public will not be jeopardized by resumption of operation. No additional service charges shall be  
464 required for restoring such license.