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HOUSE BILL NO. 465

Offered January 11, 2006

Prefiled January 9, 2006

A BILL to amend and reenact §§ 32.1-126, 32.1-162.3, 37.2-404, and 63.2-1800 of the Code of Virginia, relating to notification of the location of nursing homes, hospices, group homes, assisted living facilities, and adult day care facilities.

Patron—Ingram

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-126, 32.1-162.3, 37.2-404, and 63.2-1800 of the Code of Virginia are amended and reenacted as follows:

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

A. Pursuant to this article, the Commissioner shall issue licenses to, and assure compliance with certification requirements for 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 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 a hospital or nursing home license or nursing facility certification.

D. For the purpose of facilitating the prompt restoration of electrical service and prioritization of customers during widespread power outages, the Commissioner shall notify on a quarterly basis all electric utilities serving customers in Virginia as to the location *and licensed capacity* of all nursing homes licensed in the Commonwealth. The requirements of this subsection shall be met if the Commissioner maintains such information on an electronic database accessible by electric utilities serving customers in Virginia.

E. For purposes of facilitating the adequate planning and implementation of emergency responses by appropriate state and local officials, the Commissioner shall on a quarterly basis notify the Virginia Department of Emergency Management (VDEM) as to the location and licensed capacity of all nursing homes licensed in the Commonwealth. The location information shall contain the physical street address adequate for E-911 emergency services dispatch, physical map latitude and longitude coordinates, or the facility location pinpointed on a Virginia Department of Transportation secondary road map. The requirements of this section shall be met if the Commissioner maintains such information on an electronic database accessible by VDEM. VDEM shall be responsible for forwarding said quarterly reports to designated local emergency planning contacts and the Virginia Geographic Information Network office.

§ 32.1-162.3. License required for hospice programs; notice of denial of license; renewal thereof.

A. No person shall establish or operate a hospice without a license issued pursuant to this article.

B. The Commissioner shall issue or renew a license to establish or operate a hospice upon application therefor on a form and accompanied by a fee prescribed by the Board if the Commissioner finds that the hospice is in compliance with the provisions of this article and regulations of the Board.

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59 The Commissioner shall notify by certified mail any applicant denied a license of the reasons for such
60 denial.

61 C. Every such license shall expire at midnight December 31 of the year issued, or as otherwise
62 specified by the Board, and shall be required to be renewed annually.

63 D. The activities and services of each applicant for issuance or renewal of a hospice license shall be
64 subject to an inspection and examination by the Commissioner to determine if the hospice is in
65 compliance with the provisions of this article and regulations of the Board.

66 E. No license issued pursuant to this article may be transferred or assigned.

67 F. In accordance with § 63.2-1806, an entity licensed as a hospice pursuant to this article may
68 concurrently hold a license to operate an assisted living facility as defined in § 63.2-100 and may
69 provide hospice care to the residents of such facility.

70 *G. For purposes of facilitating the adequate planning and implementation of emergency responses by*
71 *appropriate state and local officials, the Commissioner shall on a quarterly basis notify the Virginia*
72 *Department of Emergency Management (VDEM) as to the location and licensed capacity of each*
73 *hospice facility licensed in the Commonwealth. The location information shall contain the physical street*
74 *address adequate for E-911 emergency services dispatch, physical map latitude and longitude*
75 *coordinates, or the facility location pinpointed on a Virginia Department of Transportation secondary*
76 *road map. The requirements of this section shall be met if the Commissioner maintains such information*
77 *on an electronic database accessible by VDEM. VDEM shall be responsible for forwarding said*
78 *quarterly reports to designated local emergency planning contacts and the Virginia Geographic*
79 *Information Network office.*

80 § 37.2-404. Authority of Commissioner to grant licenses.

81 The Commissioner, subject to regulations adopted by the Board, may license any suitable provider to
82 establish, maintain and operate, or have charge of any service.

83 *For purposes of facilitating the adequate planning and implementation of emergency responses by*
84 *appropriate state and local officials, the Commissioner shall on a quarterly basis notify the Virginia*
85 *Department of Emergency Management (VDEM) as to the location and licensed capacity of all child*
86 *and adult group homes licensed in the Commonwealth. The location information shall contain the*
87 *physical street address adequate for E-911 emergency services dispatch, physical map latitude and*
88 *longitude coordinates, or the facility location pinpointed on a Virginia Department of Transportation*
89 *secondary road map. The requirements of this section shall be met if the Commissioner maintains such*
90 *information on an electronic database accessible by VDEM. VDEM shall be responsible for forwarding*
91 *said quarterly reports to designated local emergency planning contacts and the Virginia Geographic*
92 *Information Network office.*

93 § 63.2-1800. Licensure requirements.

94 A. Each license shall indicate whether the facility is licensed to provide residential living care or
95 residential living and assisted living care.

96 B. Any facility licensed exclusively as an assisted living facility shall not use in its title the words
97 "convalescent," "health," "hospital," "nursing," "sanatorium," or "sanitarium," nor shall such words be
98 used to describe the facility in brochures, advertising, or other marketing material. No facility shall
99 advertise or market a level of care that it is not licensed to provide. Nothing in this subsection shall
100 prohibit the facility from describing services available in the facility.

101 C. Upon initial application for a license, any person applying to operate an assisted living facility
102 who has not previously owned or managed or does not currently own or manage such a facility shall be
103 required to undergo training by the Commissioner. The training programs shall focus on health and
104 safety regulations and resident rights as they pertain to assisted living facilities and shall be completed
105 by the owner or administrator prior to the granting of an initial license. Such training shall be required
106 of those owners and currently employed administrators of an assisted living facility at the time of initial
107 application for a license. The Commissioner may also approve training programs provided by other
108 entities and allow owners or administrators to attend such approved training programs in lieu of training
109 by the Commissioner. The Commissioner may also approve for licensure applicants who meet requisite
110 experience criteria as established by the Board. The Commissioner may, at his discretion, issue a license
111 conditioned upon the owner or administrator's completion of the required training.

112 D. For the purpose of facilitating the prompt restoration of electrical service and prioritization of
113 customers during widespread power outages, the Commissioner shall notify on a quarterly basis all
114 electric utilities serving customers in Virginia as to the location of all assisted living facilities *and adult*
115 *day care facilities* licensed in the Commonwealth. The requirements of this subsection shall be met if
116 the Commissioner maintains such information on an electronic database accessible by electric utilities
117 serving customers in Virginia.

118 *E. For purposes of facilitating the adequate planning and implementation of emergency responses by*
119 *appropriate state and local officials, the Commissioner shall on a quarterly basis notify the Virginia*
120 *Department of Emergency Management (VDEM) as to the location and licensed capacity of all assisted*

121 *living facilities and adult day care facilities licensed in the Commonwealth. The location information*
122 *shall contain the physical street address adequate for E-911 emergency services dispatch, physical map*
123 *latitude and longitude coordinates, or the facility location pinpointed on a Virginia Department of*
124 *Transportation secondary road map. The requirements of this section shall be met if the Commissioner*
125 *maintains such information on an electronic database accessible by VDEM. VDEM shall be responsible*
126 *for forwarding said quarterly reports to designated local emergency planning contacts and the Virginia*
127 *Geographic Information Network office.*