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SENATE BILL NO. 503

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend and reenact §§ 2.2-221, 2.2-3705.5, 8.01-225, 8.01-581.17, 15.2-1518, 18.2-51.1, 27-8.1, 32.1-48.015, 32.1-127.1:03, 40.1-8, 46.2-694, as it is effective and as it may become effective, 46.2-920, 46.2-1023, 53.1-133.03, 54.1-2819, 54.1-2901, 54.1-2969, 54.1-2987.1, 57-60, and 63.2-1606 of the Code of Virginia; to amend the Code of Virginia by adding in Title 9.1 a chapter numbered 13, containing articles numbered 1 through 3, consisting of sections numbered 9.1-1300 through 9.1-1322; and to repeal §§ 32.1-111.1 through 32.1-116.3 of the Code of Virginia, relating to the Office of Emergency Medical Services.*

Patron—Northam

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-221, 2.2-3705.5, 8.01-225, 8.01-581.17, 15.2-1518, 18.2-51.1, 27-8.1, 32.1-48.015, 32.1-127.1:03, 40.1-8, 46.2-694, as it is effective and as it may become effective, 46.2-920, 46.2-1023, 53.1-133.03, 54.1-2819, 54.1-2901, 54.1-2969, 54.1-2987.1, 57-60, and 63.2-1606 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 9.1 a chapter numbered 13, containing articles numbered 1 through 3, consisting of sections numbered 9.1-1300 through 9.1-1322, as follows:

§ 2.2-221. Position established; agencies for which responsible.

The position of Secretary of Public Safety (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Alcoholic Beverage Control, Department of Corrections, Department of Juvenile Justice, Department of Correctional Education, Department of Criminal Justice Services, *Department of Emergency Medical Services*, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of Military Affairs, Department of Veterans Services, Virginia Veterans Services Foundation, Department of State Police, Department of Fire Programs and the Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

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. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health 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 health 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. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health 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.

Where the person who is the subject of health records is under the age of 18, 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, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

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.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the

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requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

3. Reports, documentary evidence and other information as specified in §§ 2.2-706 and 63.2-104.

4. 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 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2. 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.

5. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article ~~2-1~~ 1 (§ ~~32.1-111.1~~ 9.1-1300 et seq.) of Chapter 4 ~~13~~ of Title ~~32.1~~ 9.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

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

8. Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.

9. 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.

10. 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.

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

12. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Chapter 3.1 (§ 51.5-12.1 et seq.) of Title 51.5, to the extent such records contain (i) medical or mental records, or other data identifying individual patients or (ii) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

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

14. Records, information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.

15. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

16. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

17. Records of the State Health Commissioner relating to the health of any person or persons subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1; this provision shall not, however, be construed to prohibit the disclosure of statistical summaries, abstracts or other information in aggregate form.

18. Records containing the names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person at the scene of an accident, fire, or any life-threatening emergency, or en route therefrom to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services technician certified by the ~~Board of Health~~ *State Emergency Medical Services Board*, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the ~~State Board of Health~~ *State Emergency Medical Services Board* who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of ~~Health~~ *Emergency Medical Services* regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the ~~State Board of Health~~ *Emergency Medical Services Board* to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an automated external defibrillator at the scene of an emergency, trains individuals to be operators of automated external defibrillators, or orders automated external defibrillators, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an automated external defibrillator in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

9. Is an employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who

182 requires insulin injections during the school day or for whom glucagon has been prescribed for the
183 emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence
184 in acts or omissions resulting from the rendering of such treatment if the insulin is administered
185 according to the child's medication schedule or such employee has reason to believe that the individual
186 receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any
187 employee of a school board is covered by the immunity granted herein, the school board employing him
188 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the
189 rendering of such insulin or glucagon treatment.

190 B. Any licensed physician serving without compensation as the operational medical director for a
191 licensed emergency medical services agency in this Commonwealth shall not be liable for any civil
192 damages for any act or omission resulting from the rendering of emergency medical services in good
193 faith by the personnel of such licensed agency unless such act or omission was the result of such
194 physician's gross negligence or willful misconduct.

195 Any person serving without compensation as a dispatcher for any licensed public or nonprofit
196 emergency services agency in this Commonwealth shall not be liable for any civil damages for any act
197 or omission resulting from the rendering of emergency services in good faith by the personnel of such
198 licensed agency unless such act or omission was the result of such dispatcher's gross negligence or
199 willful misconduct.

200 Any individual, certified by the State ~~Office~~*Department* of Emergency Medical Services as an
201 emergency medical services instructor and pursuant to a written agreement with such office, who, in
202 good faith and in the performance of his duties, provides instruction to persons for certification or
203 recertification as a certified basic life support or advanced life support emergency medical services
204 technician shall not be liable for any civil damages for acts or omissions on his part directly relating to
205 his activities on behalf of such office unless such act or omission was the result of such emergency
206 medical services instructor's gross negligence or willful misconduct.

207 Any licensed physician serving without compensation as a medical advisor to an E-911 system in
208 this Commonwealth shall not be liable for any civil damages for any act or omission resulting from
209 rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911
210 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the
211 result of such physician's gross negligence or willful misconduct.

212 Any licensed physician who directs the provision of emergency medical services, as authorized by
213 the State Board of ~~Health~~*Emergency Medical Services*, through a communications device shall not be
214 liable for any civil damages for any act or omission resulting from the rendering of such emergency
215 medical services unless such act or omission was the result of such physician's gross negligence or
216 willful misconduct.

217 Any licensed physician serving without compensation as a supervisor of an automated external
218 defibrillator in this Commonwealth shall not be liable for any civil damages for any act or omission
219 resulting from rendering medical advice in good faith to the owner of the automated external
220 defibrillator relating to personnel training, local emergency medical services coordination, protocol
221 approval, automated external defibrillator deployment strategies, and equipment maintenance plans and
222 records unless such act or omission was the result of such physician's gross negligence or willful
223 misconduct.

224 C. Any communications services provider, as defined in § 58.1-647, including mobile service, and
225 any provider of Voice-over-Internet Protocol service, in this Commonwealth shall not be liable for any
226 civil damages for any act or omission resulting from rendering such service with or without charge
227 related to emergency calls unless such act or omission was the result of such service provider's gross
228 negligence or willful misconduct.

229 Any volunteer engaging in rescue or recovery work at a mine or any mine operator voluntarily
230 providing personnel to engage in rescue or recovery work at a mine not owned or operated by such
231 operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such
232 rescue or recovery work in good faith unless such act or omission was the result of gross negligence or
233 willful misconduct. For purposes of this subsection, the term "Voice-over-Internet Protocol service" or
234 "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually
235 originating or terminating in Internet Protocol from either or both ends of a channel of communication
236 offering real time, multidirectional voice functionality, including, but not limited to, services similar to
237 traditional telephone service.

238 D. Nothing contained in this section shall be construed to provide immunity from liability arising out
239 of the operation of a motor vehicle.

240 E. (Expires July 1, 2008) 1. In the absence of gross negligence or willful misconduct, a health care
241 provider shall not be liable in any civil action resulting from (i) injuries to any health care worker
242 sustained in connection with administration of the vaccinia (smallpox) vaccine or other smallpox
243 countermeasure, or (ii) any injuries to any other person sustained as a result of such other person

coming into contact, directly or indirectly, with a health care worker; provided the vaccinia (smallpox) vaccine or smallpox countermeasure was administered and monitored in accordance with the recommendations of the Centers for Disease Control and Prevention in effect at the time of the vaccinia (smallpox) vaccine or other smallpox countermeasure administration. Nothing in this subsection shall preclude an injured health care worker, who is otherwise eligible for workers' compensation benefits pursuant to Title 65.2, from receipt of such benefits.

2. In the absence of gross negligence or willful misconduct, a health care worker shall not be liable in any civil action for injuries to any other person sustained as a result of such other person coming into contact, directly or indirectly, with a health care worker, provided the vaccinia (smallpox) vaccine or smallpox countermeasure was administered and monitored in accordance with the recommendations of the Centers for Disease Control and Prevention in effect at the time of the vaccinia (smallpox) vaccine or other smallpox countermeasure administration.

3. For the purposes of this subsection, "health care provider" means a health care provider participating in a smallpox preparedness program, pursuant to a declaration by the United States Department of Health and Human Services (HHS), through which individuals associated with the health care provider have received the vaccinia (smallpox) vaccine or other smallpox countermeasure defined by HHS from any hospital, clinic, state or local health department, or any other entity that is identified by state or local government entities or the HHS to participate in a vaccination program.

4. For the purposes of this subsection, "health care worker" means a health care worker to whom the vaccinia (smallpox) vaccine or other smallpox countermeasure has been administered as part of a smallpox preparedness program pursuant to a declaration by HHS. Such health care workers shall include but shall not be limited to: (i) employees of a health care provider referenced in subdivision 3, (ii) independent contractors with a health care provider referenced in subdivision 3, (iii) persons who have practice privileges in a hospital, (iv) persons who have agreed to be on call in an emergency room, (v) persons who otherwise regularly deliver prehospital care to patients admitted to a hospital, and (vi) first responders who, for the purposes of this section, are defined as any law-enforcement officer, firefighter, emergency medical personnel, or other public safety personnel functioning in a role identified by a federal, state, or local emergency response plan.

F. For the purposes of this section, the term "compensation" shall not be construed to include (i) the salaries of police, fire or other public officials or personnel who render such emergency assistance, (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician service or first aid service pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199 or 45.1-161.263, (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency, or (iv) the salary of any person who (a) owns an automated external defibrillator for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate automated external defibrillators at the scene of emergencies, (c) orders automated external defibrillators for use at the scene of emergencies, or (d) operates an automated external defibrillator at the scene of an emergency.

For the purposes of this section, an emergency medical care attendant or technician shall be deemed to include a person licensed or certified as such or its equivalent by any other state when he is performing services which he is licensed or certified to perform by such other state in caring for a patient in transit in this Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use cardiopulmonary resuscitation (CPR) and an automated external defibrillator (AED) in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

§ 8.01-581.17. Privileged communications of certain committees and entities.

A. For the purposes of this section:

"Centralized credentialing service" means (i) gathering information relating to applications for professional staff privileges at any public or licensed private hospital or for participation as a provider in any health maintenance organization, preferred provider organization or any similar organization and (ii) providing such information to those hospitals and organizations that utilize the service.

"Patient safety data" means reports made to patient safety organizations together with all health care data, interviews, memoranda, analyses, root cause analyses, products of quality assurance or quality improvement processes, corrective action plans or information collected or created by a health care provider as a result of an occurrence related to the provision of health care services.

"Patient safety organization" means any organization, group, or other entity that collects and analyzes patient safety data for the purpose of improving patient safety and health care outcomes and that is independent and not under the control of the entity that reports patient safety data.

B. The proceedings, minutes, records, and reports of any (i) medical staff committee, utilization review committee, or other committee, board, group, commission or other entity as specified in

§ 8.01-581.16; (ii) nonprofit entity that provides a centralized credentialing service; or (iii) quality assurance, quality of care, or peer review committee established pursuant to guidelines approved or adopted by (a) a national or state physician peer review entity, (b) a national or state physician accreditation entity, (c) a national professional association of health care providers or Virginia chapter of a national professional association of health care providers, (d) a licensee of a managed care health insurance plan (MCHIP) as defined in § 38.2-5800, (e) the ~~Office~~Department of Emergency Medical Services or any regional emergency medical services council, or (f) a statewide or local association representing health care providers licensed in the Commonwealth, together with all communications, both oral and written, originating in or provided to such committees or entities, are privileged communications which may not be disclosed or obtained by legal discovery proceedings unless a circuit court, after a hearing and for good cause arising from extraordinary circumstances being shown, orders the disclosure of such proceedings, minutes, records, reports, or communications. Additionally, for the purposes of this section, accreditation and peer review records of the American College of Radiology and the Medical Society of Virginia are considered privileged communications. Oral communications regarding a specific medical incident involving patient care, made to a quality assurance, quality of care, or peer review committee established pursuant to clause (iii), shall be privileged only to the extent made more than 24 hours after the occurrence of the medical incident.

C. Nothing in this section shall be construed as providing any privilege to health care provider, emergency medical services agency, community services board, or behavioral health authority medical records kept with respect to any patient in the ordinary course of business of operating a hospital, emergency medical services agency, community services board, or behavioral health authority nor to any facts or information contained in such records nor shall this section preclude or affect discovery of or production of evidence relating to hospitalization or treatment of any patient in the ordinary course of hospitalization of such patient.

D. Notwithstanding any other provision of this section, reports or patient safety data in possession of a patient safety organization, together with the identity of the reporter and all related correspondence, documentation, analysis, results or recommendations, shall be privileged and confidential and shall not be subject to a civil, criminal, or administrative subpoena or admitted as evidence in any civil, criminal, or administrative proceeding. Nothing in this subsection shall affect the discoverability or admissibility of facts, information or records referenced in subsection C as related to patient care from a source other than a patient safety organization.

E. Any patient safety organization shall promptly remove all patient-identifying information after receipt of a complete patient safety data report unless such organization is otherwise permitted by state or federal law to maintain such information. Patient safety organizations shall maintain the confidentiality of all patient-identifying information and shall not disseminate such information except as permitted by state or federal law.

F. Exchange of patient safety data among health care providers or patient safety organizations that does not identify any patient shall not constitute a waiver of any privilege established in this section.

G. Reports of patient safety data to patient safety organizations shall not abrogate obligations to make reports to health regulatory boards or other agencies as required by state or federal law.

H. No employer shall take retaliatory action against an employee who in good faith makes a report of patient safety data to a patient safety organization.

I. Reports produced solely for purposes of self-assessment of compliance with requirements or standards of the Joint Commission on Accreditation of Healthcare Organizations shall be privileged and confidential and shall not be subject to subpoena or admitted as evidence in a civil or administrative proceeding. Nothing in this subsection shall affect the discoverability or admissibility of facts, information, or records referenced in subsection C as related to patient care from a source other than such accreditation body. A health care provider's release of such reports to such accreditation body shall not constitute a waiver of any privilege provided under this section.

CHAPTER 13.

DEPARTMENT OF EMERGENCY MEDICAL SERVICES.

Article 1.

Statewide Emergency Medical Services System.

§ 9.1-1300. Department of Emergency Medical Services.

There is hereby created a Department of Emergency Medical Services (the "Department") that shall be headed by a Director appointed by the Governor, subject to confirmation by the General Assembly. The Director shall serve at the pleasure of the Governor.

The Director, under the direction and control of the Governor, shall exercise the powers and perform duties conferred or imposed upon him by law and perform other such duties required by the Governor or the State Emergency Medical Services Board.

§ 9.1-1301. Definitions.

As used in this chapter:

"Agency" means any person engaged in the business, service, or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded, or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

"Ambulance" means any vehicle, vessel, or aircraft that holds a valid permit issued by the Department of Emergency Medical Services, that is specially constructed, equipped, maintained, and operated, and that is intended to be used for emergency medical care and the transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless. The word "ambulance" may not appear on any vehicle, vessel, or aircraft that does not hold a valid permit.

"Automated external defibrillator" means a medical device that combines a heart monitor and defibrillator and (i) has been approved by the United States Food and Drug Administration, (ii) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, (iii) is capable of determining, without intervention by an operator, whether defibrillation should be performed, and (iv) automatically charges and requests delivery of an electrical impulse to an individual's heart, upon determining that defibrillation should be performed.

"Board" means the State Emergency Medical Services Board.

"Emergency medical services personnel" means persons responsible for the direct provision of emergency medical services in a given medical emergency, including all persons who could be described as attendants, attendants-in-charge, or operators.

"Emergency medical services vehicle" means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services vehicle permit issued by the Department of Emergency Medical Services that is equipped, maintained, or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.

§ 9.1-1302. Exemptions from provisions of this chapter.

The following entities are exempted from the provisions of this chapter:

1. Emergency medical service agencies based outside the Commonwealth, except that any such agency receiving a person who is sick, injured, wounded, incapacitated, or helpless within the Commonwealth for transportation to a location within the Commonwealth shall comply with the provisions of this chapter;

2. Emergency medical service agencies operated by the United States government; and

3. Wheelchair interfacility transport services and wheelchair interfacility transport service vehicles that are engaged, whether or not for profit, in the business, service, or regular activity of and exclusively used for transporting wheelchair-bound passengers between medical facilities in the Commonwealth when no ancillary medical care or oversight is necessary. However, such services and vehicles shall comply with Department of Medical Assistance Services regulations regarding the transportation of Medicaid recipients to covered services.

§ 9.1-1303. State Emergency Medical Services Board; purpose; membership; reimbursement of expenses.

A. There is hereby created in the executive branch the State Emergency Medical Services Board for the purpose of managing the statewide emergency medical care system and emergency medical services vehicles maintained and operated to provide transportation to persons requiring emergency medical treatment, and for developing the Statewide Emergency Medical Services Plan. The State Emergency Medical Services Board shall be composed of 28 members appointed by the Governor as follows: one representative each of the Virginia Municipal League, Virginia Association of Counties, Virginia Hospital and Healthcare Association, and each of the 11 regional emergency medical services councils; one member each from the Medical Society of Virginia, Virginia Chapter of the American College of Emergency Physicians, Virginia Chapter of the American College of Surgeons, Virginia Chapter of the American Academy of Pediatrics, Emergency Nurses Association or the Virginia Nurses' Association, Virginia State Firefighters Association, Virginia Fire Chiefs Association, Virginia Ambulance Association, Virginia Association of Governmental Emergency Medical Services Administrators, and Virginia Association of Public Safety Communications Officials; a Virginia professional firefighter; two representatives of the Virginia Association of Volunteer Rescue Squads, Inc.; and one consumer who shall not be involved in or affiliated with emergency medical services in any capacity. Each organization and group shall submit three nominees from among which the Governor may make appointments. Of the three nominees submitted by each of the regional emergency medical services councils, at least one nominee shall be a representative of providers of prehospital care. Any person appointed to the Board shall be a member of the organization that he represents. To ensure diversity in the organizations and groups represented on the Board, the Governor may request additional nominees from the applicable organizations and groups. However, the Governor shall not be bound to make any appointment from among any nominees recommended by such organizations and groups.

B. Appointments to the Board shall be for terms of three years or the unexpired portions thereof in a manner to preserve insofar as possible the representation of the specified groups. No member shall

serve more than two successive terms. No person representing any organization or group named in subsection A who has served as a member of the State Emergency Medical Services Board for two or more successive terms for any period or for six or more consecutive years shall be nominated for appointment or appointed to the Board unless at least three consecutive years have elapsed since the person has served on the Board.

C. The chairman shall be elected from the membership of the Board for a term of one year and shall be eligible for reelection. A majority of the members shall constitute a quorum. Members shall be paid reasonable and necessary expenses incurred in the performance of their duties. Citizen members shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.

D. The Board shall meet at least four times annually at the call of the chairman or the Secretary of Public Safety.

§ 9.1-1304. Powers and duties of the Board.

The State Emergency Medical Services Board shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter;

2. Develop a Statewide Emergency Medical Services Plan and any revisions thereto, as set out in § 9.1-1305;

3. Review the annual financial report of the Virginia Association of Volunteer Rescue Squads, as required by § 9.1-1315; and

4. Review, on a schedule as it may determine, reports on the status of all aspects of the statewide emergency medical care system, including the Financial Assistance and Review Committee, the Rescue Squad Assistance Fund, the regional emergency medical services councils, and the emergency medical services vehicles.

§ 9.1-1305. Statewide Emergency Medical Services Plan.

A. The Board shall, in coordination with the Board of Health, develop a comprehensive, coordinated, emergency medical care system in the Commonwealth and prepare a Statewide Emergency Medical Services Plan that shall incorporate, but not be limited to, the plans prepared by the regional emergency medical services councils. The Board shall review, update, and publish the plan triennially, making such revisions as may be necessary to improve the effectiveness and efficiency of the Commonwealth's emergency medical care system. Publishing through electronic means and posting on the Department website shall satisfy the publication requirement. The objectives of such plan and the system shall include, but not be limited to, the following:

1. Establishing a comprehensive statewide emergency medical care system, incorporating facilities, transportation, manpower, communications, and other components as integral parts of a unified system that will serve to improve the delivery of emergency medical services and thereby decrease morbidity, hospitalization, disability, and mortality;

2. Reducing the time period between the identification of an acutely ill or injured patient and the definitive treatment;

3. Increasing the accessibility of high quality emergency medical services to all citizens of Virginia;

4. Promoting continuing improvement in system components, including ground, water, and air transportation; communications; hospital emergency departments and other emergency medical care facilities; consumer health information and education; and health manpower and manpower training;

5. Ensuring performance improvement of the Emergency Medical Services System and emergency medical care delivered on scene, in transit, in hospital emergency departments, and within the hospital environment;

6. Working with professional medical organizations, hospitals, and other public and private agencies in developing approaches whereby the many persons who are presently using the existing emergency department for routine, nonurgent, primary medical care will be served more appropriately and economically;

7. Conducting, promoting, and encouraging programs of education and training designed to upgrade the knowledge and skills of health manpower involved in emergency medical services, including expanding the availability of paramedic and advanced life support training throughout the Commonwealth with particular emphasis on regions underserved by personnel having such skills and training;

8. Consulting with and reviewing, with agencies and organizations, the development of applications to governmental or other sources for grants or other funding to support emergency medical services programs;

9. Establishing a statewide air medical evacuation system, which shall be developed by the Department in coordination with the Department of Health, the Department of State Police, and other appropriate state agencies;

10. Establishing and maintaining a process for designation of appropriate hospitals as trauma centers and specialty care centers based on an applicable national evaluation system;

11. Maintaining a comprehensive emergency medical services patient care data collection and performance improvement system pursuant to Article 3 (§ 9.1-1319 et seq.) of this chapter;

12. Collecting data and information and preparing reports for the sole purpose of the designation and verification of trauma centers and other specialty care centers pursuant to this section. All data and information collected shall remain confidential and shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

13. Establishing and maintaining a process for crisis intervention and peer support services for emergency medical services and public safety personnel, including statewide availability and accreditation of critical incident stress management teams;

14. Establishing a statewide emergency medical services for children program to provide coordination and support for emergency pediatric care, availability of pediatric emergency medical care equipment, and pediatric training of medical care providers;

15. Establishing and supporting a statewide system of health and medical emergency response teams, including emergency medical services disaster task forces, coordination teams, disaster medical assistance teams, and other support teams that shall assist local emergency medical services at their request during mass casualty, disaster, or whenever local resources are overwhelmed;

16. Establishing and maintaining a program to improve dispatching of emergency medical services including establishment of and support for emergency medical dispatch training, accreditation of 911 dispatch centers, and public safety answering points; and

17. Identifying and establishing best practices for managing and operating agencies, improving and managing emergency medical response times, and disseminating such information to the appropriate persons and entities.

B. The Board shall also, in coordination with the Board of Health, develop and maintain as a component of the Emergency Medical Services Plan a statewide prehospital and interhospital Trauma Triage Plan designed to promote rapid access for pediatric and adult trauma patients to appropriate, organized trauma care through the publication and regular updating of information on resources for trauma care and generally accepted criteria for trauma triage and appropriate transfer. The Trauma Triage Plan shall include:

1. A strategy for maintaining the statewide Trauma Triage Plan through formal regional trauma triage plans that incorporate each region's geographic variations and trauma care capabilities and resources, including hospitals designated as trauma centers pursuant to subsection A. The regional trauma triage plans shall be reviewed triennially.

2. A uniform set of proposed criteria for prehospital and interhospital triage and transport of trauma patients developed by the Emergency Medical Services Board, in consultation with the Virginia Chapter of the American College of Surgeons, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, and prehospital care providers. The Emergency Medical Services Board may revise such criteria from time to time to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of § 8.01-581.20. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se.

3. A performance improvement program for monitoring the quality of care, consistent with other components of the Emergency Medical Services Plan. The program shall provide for collection and analysis of data on emergency medical and trauma services from existing validated sources, including but not limited to the emergency medical services patient care information system, pursuant to Article 3 (§ 9.1-1319 et seq.) of this chapter, the Patient Level Data System, and mortality data. The Emergency Medical Services Board shall review and analyze such data on a quarterly basis and report its findings to the Secretary. The Emergency Medical Services Board may execute these duties through a committee composed of persons having expertise in critical care issues and representatives of emergency medical services providers. The program for monitoring and reporting the results of emergency medical and trauma services data analysis shall be the sole means of encouraging and promoting compliance with the trauma triage criteria.

The Director shall report aggregate findings of the analysis annually to each regional emergency medical services council. The report shall be available to the public and shall identify, at a minimum, as defined in the statewide plan, the frequency of (i) incorrect triage in comparison to the total number of trauma patients delivered to a hospital prior to pronouncement of death and (ii) incorrect interfacility transfer for each region.

The Emergency Medical Services Board or its designee shall ensure that each hospital or emergency medical services director is informed of any incorrect interfacility transfer or triage, as defined in the statewide plan, specific to the provider and shall give the provider an opportunity to correct any facts on which such determination is based, if the provider asserts that such facts are inaccurate. The

findings of the report shall be used to improve the Trauma Triage Plan, including triage and transport and trauma center designation criteria.

The Director shall ensure the confidentiality of patient information, in accordance with § 9.1-1321. Such data or information in the possession of or transmitted to the Director, the Emergency Medical Services Board, any committee acting on behalf of the Emergency Medical Services Board, any hospital or prehospital care provider, any regional emergency medical services council, licensed emergency medical services agency, or group or committee established to monitor the quality of care pursuant to this subdivision, or any other person shall be privileged and shall not be disclosed or obtained by legal discovery proceedings, unless a circuit court, after a hearing and for good cause shown arising from extraordinary circumstances, orders disclosure of such data.

C. Whenever any state-owned aircraft, vehicle, or other form of conveyance is utilized under the provisions of this section, an appropriate amount not to exceed the actual costs of operation may be charged by the agency having administrative control of such aircraft, vehicle, or other form of conveyance.

§ 9.1-1306. Regulations; emergency medical services personnel and vehicles; response times; enforcement provisions; civil penalties.

A. The Board shall prescribe by regulation:

1. Requirements for record keeping, supplies, operating procedures, and other agency operations;

2. Requirements for the sanitation and maintenance of emergency medical services vehicles and their medical supplies and equipment;

3. Procedures, including the requirements for forms, to authorize qualified emergency medical services personnel to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1;

4. Requirements, developed in consultation with the Board of Health, governing the training, certification, and recertification of emergency medical services personnel;

5. Requirements for written notification to the Department of Emergency Medical Services and the Financial Assistance and Review Committee of the Board's action, and the reasons therefor, on requests and recommendations of the Department of Emergency Medical Services or the Committee, no later than five working days after reaching its decision, specifying whether the Board has approved, denied, or not acted on such requests and recommendations;

6. Authorization procedures, developed in consultation with the Board of Health, which allow the possession and administration of epinephrine or a medically accepted equivalent for emergency cases of anaphylactic shock by certain levels of certified emergency medical services personnel as authorized by § 54.1-3408 and authorization procedures that allow the possession and administration of oxygen with the authority of the local medical director and a licensed emergency medical services agency;

7. A uniform definition of "response time" and requirements for each agency to measure response times starting from the time a call for emergency medical care is received until (i) the time an appropriate emergency medical response unit is responding and (ii) the appropriate emergency medical response unit arrives on the scene, and requirements for agencies to collect and report such data to the Director, who shall compile such information and make it available to the public, upon request; and

9. Enforcement provisions, including but not limited to civil penalties that the Director may assess against any agency or other entity found to be in violation of any of the provisions of this chapter or any regulation promulgated under this article. All amounts paid as civil penalties for violations of this article or regulations promulgated pursuant thereto shall be paid into the state treasury and shall be deposited in the emergency medical services special fund established pursuant to § 46.2-694, to be used only for emergency medical services purposes.

B. The Board shall classify agencies and emergency medical services vehicles by type of service rendered and shall specify the medical equipment, the supplies, the vehicle specifications, and the personnel required for each classification.

C. In formulating its regulations, the Board shall consider the current Minimal Equipment List for Ambulances adopted by the Committee on Trauma of the American College of Surgeons.

§ 9.1-1307. Certification and recertification of emergency medical services personnel.

A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical care attendants, including those qualifications necessary for authorization to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1.

B. Each person desiring certification as emergency medical services personnel shall apply to the Director upon a form prescribed by the Board. Upon receipt of such application, the Director shall cause the applicant to be examined or otherwise determined to be qualified for certification. If the Director determines that the applicant meets the requirements of such regulations, he shall issue a certificate to the applicant. An emergency medical services personnel certificate so issued shall be valid for a period required by law or prescribed by the Board. The certificates may be renewed after successful reexamination of the holder. Any certificate so issued may be suspended at any time that the Director determines that the holder no longer meets the qualifications prescribed for such emergency

medical services personnel.

C. The Board shall prescribe by regulation procedures and the qualifications required for the recertification of emergency medical services personnel. Such regulations shall include (i) authorization for continuing education and skills testing, in lieu of a written examination, with the signature of the relevant operational medical director; (ii) authorization for the relevant operational medical director to require the written examinations administered or approved by the Department of Emergency Medical Services, as deemed necessary, of certain emergency medical services personnel; (iii) authorization for exemptions from the written test for recertification by the relevant operational medical director; (iv) triennial recertification of advanced life support providers; (v) approval by the Department of continuing education modules in which each module may be tested separately; and (vi) a sequential option for the completion of the skills tests for recertification.

D. The Director may issue a temporary certificate when he finds that it is in the public interest. A temporary certificate shall be valid for a period not exceeding 90 days.

§ 9.1-1308. Permits; agency; emergency medical services vehicles.

A. No person shall operate, conduct, maintain or profess to be an agency without a valid permit issued by the Director for such agency and for each emergency medical services vehicle used by such agency.

B. The Director shall issue an original or renewal permit for an agency or emergency medical services vehicle which meets all requirements set forth in this chapter and in the regulations of the Board, upon application, on forms and according to procedures established by the Board. Permits shall be valid for a period specified by the Board, not to exceed two years.

C. The Director may issue temporary permits for agencies or emergency medical services vehicles not meeting required standards, valid for a period not to exceed 60 days, when the public interest will be served thereby.

D. The issuance of a permit hereunder shall not be construed to authorize any agency to operate any emergency medical services vehicle without a franchise or permit in any county or municipality which has enacted an ordinance pursuant to § 9.1-1316 making it unlawful to do so.

§ 9.1-1309. Inspections.

Each agency and each emergency medical services vehicle for which a permit has been issued shall be inspected as often as the Director deems necessary and a record thereof shall be maintained. Each such agency or vehicle, its medical supplies and equipment, and the records of its maintenance and operation shall be available at all reasonable times for inspection.

§ 9.1-1310. Revocation and suspension of permits.

Whenever an agency or an emergency medical services vehicle owned or operated by an agency is in violation of any provision of this chapter or any applicable regulation, the Director shall have the power to revoke or suspend such agency's permit and the permits of all emergency medical services vehicles owned or operated by the agency.

§ 9.1-1311. Applications for variances or exemptions.

Prior to the submission to the Director by a volunteer rescue squad of an application for a variance, or to the Board for an exemption from any regulations promulgated pursuant to this chapter, the application shall be reviewed by the governing body of the jurisdiction in which the principal office of the volunteer rescue squad is located. The recommendation of the governing body regarding the variance or exemption shall be submitted with the application, and, absent compelling reasons to the contrary, the Director or Board, whichever is appropriate, shall adopt that recommendation for the purposes of granting or denying the variance or exemption.

The applicant shall have the right to appeal any denial by the Director or Board of an application for a variance or exemption pursuant to the Administrative Process Act (§ 2.2-4000 et seq.).

§ 9.1-1312. Regional emergency medical services councils.

The Board shall designate regional emergency medical services councils, which shall be authorized to receive and disburse public funds. Each council shall be charged with the development and implementation of an efficient and effective regional emergency medical services delivery system.

The Board shall review those agencies that were the designated regional emergency medical services councils. The Board shall, in accordance with the standards established in its regulations, review and may renew or deny applications for such designations every three years. In its discretion, the Board may establish conditions for renewal of such designations or may solicit applications for designation as a regional emergency medical services council.

Each council shall include, if available, representatives of the participating local governments, fire protection agencies, law-enforcement agencies, emergency medical services agencies, hospitals, licensed practicing physicians, emergency care nurses, mental health professionals, emergency medical technicians, and other appropriate allied health professionals.

Each council shall adopt and revise as necessary a regional emergency medical services plan in

674 cooperation with the Board.

675 The designated councils shall be required to match state funds with local funds obtained from private
676 or public sources in the proportion specified in the regulations of the Board. Moneys received directly
677 or indirectly from the Commonwealth shall not be used as matching funds. A local governing body may
678 choose to appropriate funds for the purpose of providing matching grant funds for any council.
679 However, this section shall not be construed to place any obligation on any local governing body to
680 appropriate funds to any council.

681 The Board shall promulgate regulations to implement this section, which shall include but not be
682 limited to requirements to ensure accountability for public funds, criteria for matching funds, and
683 performance standards.

684 § 9.1-1313. Virginia Rescue Squads Assistance Fund; disbursements.

685 A. For the purposes of providing financial assistance to rescue squads and other emergency medical
686 services organizations in the Commonwealth, of providing the requisite training for emergency medical
687 service personnel, and of purchasing equipment needed by such rescue squads and organizations, there
688 is hereby created in the Department of the Treasury a special nonreverting fund, which shall be known
689 as the Virginia Rescue Squads Assistance Fund (the Fund). The Fund shall be established on the books
690 of the Comptroller, and any moneys remaining in such Fund at the end of each fiscal year shall not
691 revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in
692 the Fund and be credited to it. The Fund shall consist of any moneys appropriated for this purpose by
693 the General Assembly and any other moneys received for such purpose by the Board.

694 B. In accordance with regulations of the Board, the Director shall disburse and expend the moneys
695 in the Virginia Rescue Squads Assistance Fund. No moneys shall be disbursed directly to any rescue
696 squad or other emergency medical services organization unless such squad or organization operates on
697 a nonprofit basis exclusively for the benefit of the general public.

698 § 9.1-1314. Financial Assistance and Review Committee; appointment; terms; duties.

699 A. For the purposes of administering the Virginia Rescue Squads Assistance Fund as provided in
700 § 9.1-1313, there is hereby established the Financial Assistance and Review Committee. The Committee
701 shall be composed of six members who shall be representatives of the regions encompassed by the
702 emergency medical services councils and appointed by the State Emergency Medical Services Board. To
703 ensure that each regional emergency medical services council is provided an opportunity to serve on the
704 Committee, the Board shall promulgate by regulation a cycle which provides for rotating geographic
705 representation among the councils.

706 B. Appointments shall be made for terms of three years or the unexpired portions thereof in a
707 manner to preserve, insofar as possible, the representation of the emergency medical services councils.
708 No member may serve more than two successive terms. The chairman shall be elected from the
709 membership of the Committee for a term of one year and shall be eligible for reelection. The Committee
710 shall meet at least four times annually at the call of the chairman or the Commissioner.

711 C. The Financial Assistance and Review Committee shall:

712 1. Administer the Rescue Squads Assistance Fund in accordance with the rules and regulations of the
713 Board as shall be established for the Fund;

714 2. Review the Rescue Squads Assistance Fund grant applications from eligible emergency medical
715 services agencies and make recommendations on the funding of such grant applications to the Director;
716 and

717 3. Report biannually, after each funding cycle, the number of grant applications received, the total
718 costs of grant applications funded, the number of grant applications denied funding, the total costs of
719 grant applications denied funding, and the nature of the denied requests and the reasons for denying
720 funding to the State Emergency Medical Services Board and the Director.

721 § 9.1-1315. Annual financial reports.

722 The Virginia Association of Volunteer Rescue Squads shall submit an annual financial report on the
723 use of its funds to the State Emergency Medical Services Board on such forms and providing such
724 information as may be required by the Board for such purpose.

725 § 9.1-1316. Powers of governing bodies of counties, cities, and towns.

726 A. Upon finding as fact, after notice and public hearing, that exercise of the powers enumerated
727 below is necessary to assure the provision of adequate and continuing emergency services and to
728 preserve, protect, and promote the public health, safety, and general welfare, the governing body of any
729 county or city may:

730 1. Enact an ordinance making it unlawful to operate emergency medical services vehicles or any
731 class thereof established by the Board in such county or city without having been granted a franchise or
732 permit to do so;

733 2. Grant franchises or permits to agencies based within or outside the county or city; however, any
734 agency in operation in any county or city on June 28, 1968, that continues to operate as such, up to
735 and including the effective date of any ordinance adopted pursuant to this section, and that submits to

the governing body of the county or city satisfactory evidence of such continuing operation, shall be granted a franchise or permit by such governing body to serve at least that part of the county or city in which the agency has continuously operated if all other requirements of this chapter are met;

3. Limit the number of emergency medical services vehicles to be operated within the county or city and by any agency;

4. Determine and prescribe areas of franchised or permitted service within the county or city;

5. Fix and change from time to time reasonable charges for franchised or permitted services;

6. Set minimum limits of liability insurance coverage for emergency medical services vehicles;

7. Contract with franchised or permitted agencies for transportation to be rendered upon call of a county or municipal agency or department and for transportation of bona fide indigents or persons certified by the local board of social services to be public assistance or social services recipients; and

8. Establish other necessary regulations consistent with statutes or regulations of the Board relating to operation of emergency medical services vehicles.

B. In addition to the powers set forth above, the governing body of any county or city may provide, or cause to be provided, services of emergency medical services vehicles; to own, operate and maintain emergency medical services vehicles; to make reasonable charges for use of emergency medical services vehicles, including charging insurers for ambulance services as authorized by § 38.2-3407.9; and to contract with any agency for the services of its emergency medical services vehicles.

C. Any incorporated town may exercise, within its corporate limits only, all those powers enumerated in subsections A and B either upon the request of a town to the governing body of the county wherein the town lies and upon the adoption by the county governing body of a resolution permitting such exercise, or after 180 days' written notice to the governing body of the county if the county is not exercising such powers at the end of such 180-day period.

D. No county ordinance enacted, or other county action taken, pursuant to powers granted herein shall be effective within an incorporated town in such county which is at the time exercising such powers until 180 days after written notice to the governing body of the town.

E. Nothing herein shall be construed to authorize any county to regulate in any manner emergency medical services vehicles owned and operated by a town or to authorize any town to regulate in any manner emergency medical services vehicles owned and operated by a county.

F. Any emergency medical services vehicles operated by a county, city, or town under authority of this section shall be subject to the provisions of this chapter and to the regulations of the Board adopted thereunder.

§ 9.1-1317. Statewide poison control system established.

From such funds as may be appropriated for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received, the Board shall establish a statewide poison control system. The funding mechanism for the system and its services shall be as provided in the appropriation act.

The Board shall establish poison control centers that meet national certification standards promulgated by the American Association of Poison Control Centers. If such national certification standards are eliminated, the Board shall establish minimum standards for the designation and operation of these poison control centers. The poison control centers established by the Board shall report to the Board by October 1 of each year regarding program operations; expenditures; revenues, including in-kind contributions; financial status; future needs; and summaries of human poison exposure cases for the most recent calendar year.

The statewide system shall provide, at a minimum, (i) consultation, by free, 24-hour emergency telephone or other means of communication, to the public and to health care practitioners regarding the ingestion or application of substances, including determinations of emergency treatment, coordination of referrals to emergency treatment facilities, and provision of appropriate information to the staffs of such facilities; (ii) prevention education and information about poison control services; (iii) training for health care practitioners in toxicology and medical management of poison exposure cases; and (iv) poison control surveillance through the collection and analysis of data from reported poison exposures to identify poisoning hazards, prevent poisonings, and improve treatment of poisoned patients.

Article 2.

Evaluation of Director of the Department of Emergency Medical Services.

§ 9.1-1318. Director of Department of Emergency Medical Services annual performance evaluation.

The Secretary of Public Safety, in consultation with the State Emergency Medical Services Board, shall annually review and evaluate the performance of the Director of the Department of Emergency Medical Services. The Secretary shall consider the Director's effectiveness in operating and managing the programs, services, and personnel of the Department of Emergency Medical Services and the statewide emergency medical care system established in Article 1 (§ 9.1-1300 et seq.) of this chapter; any recommendations of the Board; and such other relevant information as may be made available to

797 *the Secretary pertaining to the Director's performance of his duties.*

798 *Article 3.*

799 *Emergency Medical Services Patient Care Information System.*

800 *§ 9.1-1319. Prehospital patient care reporting procedure; trauma registry; confidentiality.*

801 *A. In order to collect data on the incidence, severity, and cause of trauma, integrate the information*
802 *available from other state agencies on trauma, and improve the delivery of prehospital and hospital*
803 *emergency medical services, there is hereby established the Emergency Medical Services Patient Care*
804 *Information System, which shall include the Virginia Emergency Medical Services (EMS) Registry and*
805 *the Virginia Statewide Trauma Registry.*

806 *All licensed emergency medical services agencies shall participate in the Virginia EMS Registry by*
807 *making available to the Director or his designees the minimum data set in the format prescribed by the*
808 *Board or any other format that contains equivalent information and meets any technical specifications of*
809 *the Board. The minimum data set shall include but not be limited to the type of medical emergency or*
810 *nature of the call, the response time, the treatment provided, and other items as prescribed by the*
811 *Board.*

812 *Each licensed emergency medical services agency shall, upon request, disclose the prehospital care*
813 *report to law-enforcement officials (i) when the patient is the victim of a crime or (ii) when the patient*
814 *is in the custody of law-enforcement officials and has received emergency medical services or has*
815 *refused emergency medical services.*

816 *The Director may delegate the responsibility for collection of this data to the Department of*
817 *Emergency Medical Services personnel or individuals under contract to the Department. The Board*
818 *shall assist in the design, implementation, subsequent revisions, and analyses of the data from the*
819 *Virginia EMS Registry.*

820 *B. All licensed hospitals that render emergency medical services shall participate in the Virginia*
821 *Statewide Trauma Registry by making available to the Director or his designees abstracts of the records*
822 *of all patients admitted to the institutions with diagnoses related to trauma. The abstracts shall be*
823 *submitted in the format prescribed by the Department and shall include the minimum data set prescribed*
824 *by the Board.*

825 *The Director shall seek the advice and assistance of the Board and the Trauma System Oversight*
826 *and Management Committee in the design, implementation, subsequent revisions, and analyses of the*
827 *Virginia Statewide Trauma Registry.*

828 *C. Patient and other data or information submitted to the trauma registry or transmitted to the*
829 *Director, the Board, any committee acting on behalf of the Board, any hospital or prehospital care*
830 *provider, any regional emergency medical services council, permitted emergency medical services*
831 *agency, or other group or committee for the purpose of monitoring and improving the quality of care*
832 *pursuant to § 9.1-1305 shall be privileged and shall not be disclosed or obtained by legal discovery*
833 *proceedings, unless a circuit court, after a hearing and for good cause shown arising from*
834 *extraordinary circumstances, orders disclosure of such data.*

835 *§ 9.1-1320. Disclosure of medical records.*

836 *Any licensed physician, licensed health care provider, or licensed health care facility may disclose to*
837 *an emergency medical technician, physician, or his licensed parent agency the medical records of a sick*
838 *or injured person to whom such technician or physician is providing or has rendered emergency*
839 *medical care for the purpose of promoting the medical education of the specific person who provided*
840 *such care or for quality improvement initiatives of his agency or of the EMS system as a whole. Any*
841 *emergency medical technician or physician to whom such confidential records are disclosed shall not*
842 *further disclose such information to any persons not entitled to receive that information in accordance*
843 *with the provisions of this section.*

844 *§ 9.1-1321. Confidential nature of information supplied; publication; liability protections.*

845 *A. The Director and all other persons to whom data is submitted shall keep patient information*
846 *confidential. Mechanisms for protecting patient data shall be developed and continually evaluated to*
847 *ascertain their effectiveness. No publication of information, research, or medical data shall be made that*
848 *identifies the patients by names or addresses. However, the Director or his designees may utilize*
849 *institutional data in order to improve the quality of and appropriate access to emergency medical*
850 *services.*

851 *B. No individual, licensed emergency medical services agency, hospital, Regional Emergency Medical*
852 *Services Council, or organization advising the Director shall be liable for any civil damages resulting*
853 *from any act or omission performed as required by this article unless such act or omission was the*
854 *result of gross negligence or willful misconduct.*

855 *§ 9.1-1322. Reporting of communicable diseases; definition.*

856 *A. For the purposes of this section:*

857 *"Communicable diseases" means any airborne infection or disease, including but not limited to*
858 *tuberculosis, measles, certain meningococcal infections, mumps, chicken pox, and Haemophilus*

Influenzae Type b, and those transmitted by contact with blood or other human body fluids, including but not limited to human immunodeficiency virus, Hepatitis B, and Non-A, Non-B Hepatitis.

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual or person to another or to uninfected persons through airborne or nonairborne means and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include any companion animal.

B. Every licensed health care facility that transfers or receives patients via emergency medical services ambulances or mobile intensive care units shall notify the emergency medical services agencies providing such patient transport of the name and telephone number of the individual who is the infection control practitioner with the responsibility of investigating exposure to infectious diseases in the facility.

Every licensed emergency medical services agency established in the Commonwealth shall notify all facilities to which they transport patients or from which they transfer patients of the names and telephone numbers of the members, not to exceed three persons, who have been appointed to serve as the communicable disease liaison officers. Every licensed emergency medical services agency shall implement universal precautions and shall ensure that these precautions are appropriately followed and enforced.

C. Upon requesting any licensed emergency medical services agency to transfer (i) a patient who is known to be positive for or who suffers from any communicable disease which, in the judgment of the physician authorizing the transfer or the facility's infection control practitioner, presents any risk to the transporting emergency medical services personnel or to patients who may be subsequently transported in the same vehicle, or (ii) a patient who is known to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, the transferring facility shall inform the attendant-in-charge of the transferring crew of the general condition of the patient and the types of precautions to be taken to prevent the spread of the disease. The identity of the patient shall be confidential.

D. If any firefighter, law-enforcement officer, emergency medical services technician, or paramedic has an exposure of blood or body fluid to mucous membrane, non-intact skin, or a contaminated needle-stick injury, his communicable disease liaison officer shall be notified, a report completed, and the infection control practitioner at the receiving facility notified.

E. If, during the course of medical care and treatment, any physician determines that a patient who was transported to a receiving facility by any licensed emergency medical services agency (i) is positive for or has been diagnosed as suffering from an airborne infectious disease or (ii) is subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, then the infection control practitioner in the facility shall immediately notify the communicable disease liaison officer who represents the transporting emergency medical services agency of the name of the patient, and the date and time of the patient's admittance to the facility. The communicable disease liaison officer for the transporting emergency medical services agency shall investigate the incident to determine if any exposure of emergency medical services personnel or other emergency personnel occurred. The identity of the patient and all personnel involved in any such investigation shall be confidential.

F. If any firefighter, law-enforcement officer, emergency medical services technician or paramedic shall be exposed to a communicable disease, the communicable disease liaison officer shall immediately notify the infection control practitioner of the receiving facility. The infection control practitioner of the facility shall conduct an investigation and provide information concerning the extent and severity of the exposure and the recommended course of action to the communicable disease liaison officer of the transporting agency. This section shall not be construed to create a duty by the receiving facility to perform any test or tests beyond those necessary for the medical management of the patient delivered by an emergency medical services agency to the receiving facility nor shall it affect the operation of the provisions of § 32.1-45.1.

G. Any person requesting or requiring any employee of a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise custodial supervision over an individual known to the requesting person (i) to be infected with any communicable disease or (ii) to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 shall inform such public safety agency employee of a potential risk of exposure to a communicable disease.

H. Local or state correctional facilities that transfer patients known to have a communicable disease

920 or to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02
921 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 shall notify the emergency medical services agency
922 providing transportation services of a potential risk of exposure to a communicable disease, including a
923 communicable disease of public health threat. For the purposes of this section, the chief medical person
924 at a local or state correctional facility or the facility director or his designee shall be responsible for
925 providing such information to the transporting agency.

926 I. Any person who, as a result of this provision, becomes aware of the identity or condition of a
927 person known to be (i) positive for or to suffer from any communicable disease or to have suffered
928 exposure to a communicable disease or (ii) subject to an order of quarantine or an order of isolation
929 pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 shall keep such information
930 confidential, except as expressly authorized by this provision.

931 J. No person known to be (i) positive for or to suffer from any communicable disease, including any
932 communicable disease of public health threat, or (ii) subject to an order of quarantine or an order of
933 isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 shall be refused
934 transportation or service for that reason by an emergency medical services, law-enforcement, or public
935 safety agency.

936 § 15.2-1518. Liability insurance for officers, employees and volunteers of local government and
937 members of its boards and commissions and constitutional officers.

938 Any locality and any political subdivision thereof may provide liability insurance or self-insurance
939 for its fire department operational medical director, police department operational medical director,
940 operational medical director, physician course director for any licensed emergency medical services
941 agency or emergency medical services training program located therein endorsed by the
942 ~~Office~~Department of Emergency Medical Services and for its officers, employees and volunteers,
943 including any commission or board, and employees and members thereof, of any authority created or
944 controlled by the local governing body, or any local agency or public service corporation owned,
945 operated or controlled by such local governing body and constitutional officers and their employees.

946 The insurance or self-insurance may cover the costs and expenses incident to liability, including
947 those for settlement, suit, or satisfaction of judgment arising from the conduct of such operational
948 medical directors, physician course directors, officers, employees, members or volunteers in the
949 discharge of their official duties.

950 § 18.2-51.1. Malicious bodily injury to law-enforcement officers, firefighters, search and rescue
951 personnel, or emergency medical service providers; penalty; lesser-included offense.

952 If any person maliciously causes bodily injury to another by any means including the means set out
953 in § 18.2-52, with intent to maim, disfigure, disable or kill, and knowing or having reason to know that
954 such other person is a law-enforcement officer, as defined hereinafter, firefighter, as defined in
955 § 65.2-102, search and rescue personnel as defined hereinafter, or emergency medical services personnel,
956 as defined in ~~§ 32.1-111.1~~ 9.1-1301 engaged in the performance of his public duties as a
957 law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services
958 personnel, such person shall be guilty of a felony punishable by imprisonment for a period of not less
959 than five years nor more than 30 years and, subject to subsection (g) of § 18.2-10, a fine of not more
960 than \$100,000. Upon conviction, the sentence of such person shall include a mandatory minimum term
961 of imprisonment of two years.

962 If any person unlawfully, but not maliciously, with the intent aforesaid, causes bodily injury to
963 another by any means, knowing or having reason to know such other person is a law-enforcement
964 officer, firefighter, as defined in § 65.2-102, search and rescue personnel, or emergency medical services
965 personnel, engaged in the performance of his public duties as a law-enforcement officer, firefighter,
966 search and rescue personnel, or emergency medical services personnel, he shall be guilty of a Class 6
967 felony, and upon conviction, the sentence of such person shall include a mandatory minimum term of
968 imprisonment of one year.

969 Nothing in this section shall be construed to affect the right of any person charged with a violation
970 of this section from asserting and presenting evidence in support of any defenses to the charge that may
971 be available under common law.

972 As used in this section, "law-enforcement officer" means any full-time or part-time employee of a
973 police department or sheriff's office that is part of or administered by the Commonwealth or any
974 political subdivision thereof, who is responsible for the prevention or detection of crime and the
975 enforcement of the penal, traffic or highway laws of this Commonwealth; any conservation officer of the
976 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; any conservation
977 police officer appointed pursuant to § 29.1-200 and auxiliary police officers appointed or provided for
978 pursuant to §§ 15.2-1731 and 15.2-1733 and auxiliary deputy sheriffs appointed pursuant to § 15.2-1603.

979 As used in this section, "search and rescue personnel" means any employee or member of a search
980 and rescue organization that is authorized by a resolution or ordinance duly adopted by the governing
981 body of any county, city or town of the Commonwealth.

The provisions of § 18.2-51 shall be deemed to provide a lesser-included offense hereof.

§ 27-8.1. Definitions.

"Emergency medical services personnel" means persons responsible for the direct provision of emergency medical or rescue services in a given medical emergency or emergency rescue including all persons who could be described as attendants, attendants-in-charge, or operators.

"Emergency medical services vehicle" means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services permit issue by the ~~Office~~Department of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.

"Fire/EMS company" or "Fire/EMS department" means a volunteer fire-fighting or emergency medical services (EMS) organization organized pursuant to § 27-8 in any town, city or county of the Commonwealth, with the approval of the governing body thereof consisting of fire fighters or emergency medical services personnel, or both.

§ 32.1-48.015. Authorization to disclose health records.

A. The provisions of this article are hereby declared to be necessary to prevent serious harm and serious threats to the health and safety of individuals and the public in Virginia for purposes of authorizing the State Health Commissioner or his designee to examine and review any health records of any person or persons subject to any order of quarantine or order of isolation pursuant to this article and the regulations of the Department of Health and Human Services promulgated in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended. The State Health Commissioner shall authorize any designee in writing to so examine and review any health records of any person or persons subject to any order of quarantine or order of isolation pursuant to this article.

B. Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the State Health Commissioner or his designee without obtaining consent or authorization for such disclosure from the person who is the subject of the records. Such protected health information shall be used to facilitate the health care of any person or persons who are subject to an order of quarantine or an order of isolation. The State Health Commissioner or his designee shall only redisclose such protected health information in compliance with the aforementioned federal regulations. Further, the protected health information disclosed to the State Health Commissioner or his designee shall be held confidential and shall not be disclosed pursuant to the provisions of subdivision 17 of § 2.2-3705.5.

C. Pursuant to subsection G of ~~§ 32.1-116.3~~ 9.1-1322, any person requesting or requiring any employee of a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise custodial supervision over an individual known to the requesting person (i) to be infected with any communicable disease or (ii) to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 shall inform such employee of a public safety agency of the potential risk of exposure to a communicable disease.

§ 32.1-127.1:03. Health records privacy.

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

Pursuant to this subsection:

1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F of this section and subsection B of § 8.01-413.

2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the regulations relating to change of ownership of health records promulgated by a health regulatory board established in Title 54.1.

3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records of an individual, beyond the purpose for which such disclosure was made, without first obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however, prevent (i) any health care entity that receives health records from another health care entity from making subsequent disclosures as permitted under this section and the federal Department of Health and Human Services regulations relating to privacy of the electronic transmission of data and protected health information promulgated by the United States Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data, from which individually identifying prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not limited to, pharmaceutical manufacturers and their agents or

1043 contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health
1044 services research.

1045 B. As used in this section:

1046 "Agent" means a person who has been appointed as an individual's agent under a power of attorney
1047 for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

1048 "Certification" means a written representation that is delivered by hand, by first-class mail, by
1049 overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated
1050 confirmation reflecting that all facsimile pages were successfully transmitted.

1051 "Guardian" means a court-appointed guardian of the person.

1052 "Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a
1053 public or private entity, such as a billing service, repricing company, community health management
1054 information system or community health information system, and "value-added" networks and switches,
1055 that performs either of the following functions: (i) processes or facilitates the processing of health
1056 information received from another entity in a nonstandard format or containing nonstandard data content
1057 into standard data elements or a standard transaction; or (ii) receives a standard transaction from another
1058 entity and processes or facilitates the processing of health information into nonstandard format or
1059 nonstandard data content for the receiving entity.

1060 "Health care entity" means any health care provider, health plan or health care clearinghouse.

1061 "Health care provider" means those entities listed in the definition of "health care provider" in
1062 § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the
1063 purposes of this section. Health care provider shall also include all persons who are licensed, certified,
1064 registered or permitted or who hold a multistate licensure privilege issued by any of the health
1065 regulatory boards within the Department of Health Professions, except persons regulated by the Board of
1066 Funeral Directors and Embalmers or the Board of Veterinary Medicine.

1067 "Health plan" means an individual or group plan that provides, or pays the cost of, medical care.

1068 "Health plan" shall include any entity included in such definition as set out in 45 C.F.R. § 160.103.

1069 "Health record" means any written, printed or electronically recorded material maintained by a health
1070 care entity in the course of providing health services to an individual concerning the individual and the
1071 services provided. "Health record" also includes the substance of any communication made by an
1072 individual to a health care entity in confidence during or in connection with the provision of health
1073 services or information otherwise acquired by the health care entity about an individual in confidence
1074 and in connection with the provision of health services to the individual.

1075 "Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment,
1076 pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as
1077 payment or reimbursement for any such services.

1078 "Individual" means a patient who is receiving or has received health services from a health care
1079 entity.

1080 "Individually identifying prescription information" means all prescriptions, drug orders or any other
1081 prescription information that specifically identifies an individual.

1082 "Parent" means a biological, adoptive or foster parent.

1083 "Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a
1084 mental health professional, documenting or analyzing the contents of conversation during a private
1085 counseling session with an individual or a group, joint, or family counseling session that are separated
1086 from the rest of the individual's health record. "Psychotherapy notes" shall not include annotations
1087 relating to medication and prescription monitoring, counseling session start and stop times, treatment
1088 modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis,
1089 functional status, treatment plan, or the individual's progress to date.

1090 C. The provisions of this section shall not apply to any of the following:

1091 1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia
1092 Workers' Compensation Act;

1093 2. Except where specifically provided herein, the health records of minors; or

1094 3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to
1095 § 16.1-248.3.

1096 D. Health care entities may, and, when required by other provisions of state law, shall, disclose
1097 health records:

1098 1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the
1099 case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of
1100 minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment
1101 pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an
1102 individual's written authorization, pursuant to the individual's oral authorization for a health care
1103 provider or health plan to discuss the individual's health records with a third party specified by the
1104 individual;

2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by law relating to public health activities, health oversight activities, serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public safety, and suspected child or adult abuse reporting requirements, including, but not limited to, those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283, 32.1-283.1, 37.2-710, 37.2-839, 53.1-40.10, 54.1-2400.6, 54.1-2400.7, 54.1-2403.3, 54.1-2506, 54.1-2966, 54.1-2966.1, 54.1-2967, 54.1-2968, 63.2-1509, and 63.2-1606;

7. Where necessary in connection with the care of the individual;

8. In connection with the health care entity's own health care operations or the health care operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in accordance with accepted standards of practice within the health services setting; however, the maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and 54.1-3412;

9. When the individual has waived his right to the privacy of the health records;

10. When examination and evaluation of an individual are undertaken pursuant to judicial or administrative law order, but only to the extent as required by such order;

11. To the guardian ad litem and any attorney representing the respondent in the course of a guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 10 (§ 37.2-1000 et seq.) of Title 37.2;

12. To the attorney appointed by the court to represent an individual who is or has been a patient who is the subject of a civil commitment proceeding under Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2 or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title 37.2;

13. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or administrative proceeding, if the court or administrative hearing officer has entered an order granting the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the health care entity of such order;

14. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records in accord with § 9.1-156;

15. To an agent appointed under an individual's power of attorney or to an agent or decision maker designated in an individual's advance directive for health care or for decisions on anatomical gifts and organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.);

16. To third-party payors and their agents for purposes of reimbursement;

17. As is necessary to support an application for receipt of health care benefits from a governmental agency or as required by an authorized governmental agency reviewing such application or reviewing benefits already provided or as necessary to the coordination of prevention and control of disease, injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

18. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

19. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;

20. Where necessary in connection with the implementation of a hospital's routine contact process for organ donation pursuant to subdivision B 4 of § 32.1-127;

21. In the case of substance abuse records, when permitted by and in conformity with requirements of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;

22. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the adequacy or quality of professional services or the competency and qualifications for professional staff privileges;

23. If the health records are those of a deceased or mentally incapacitated individual to the personal representative or executor of the deceased individual or the legal guardian or committee of the

1166 incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian
1167 or committee appointed, to the following persons in the following order of priority: a spouse, an adult
1168 son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual
1169 in order of blood relationship;

1170 24. For the purpose of conducting record reviews of inpatient hospital deaths to promote
1171 identification of all potential organ, eye, and tissue donors in conformance with the requirements of
1172 applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's
1173 designated organ procurement organization certified by the United States Health Care Financing
1174 Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association
1175 of America or the American Association of Tissue Banks;

1176 25. To the Office of the Inspector General for Mental Health, Mental Retardation and Substance
1177 Abuse Services pursuant to Article 3 (§ 37.2-423 et seq.) of Chapter 4 of Title 37.2;

1178 26. To an entity participating in the activities of a local health partnership authority established
1179 pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4 of this title, pursuant to subdivision 1 of
1180 this subsection;

1181 27. To law-enforcement officials by each licensed emergency medical services agency, (i) when the
1182 individual is the victim of a crime or (ii) when the individual has been arrested and has received
1183 emergency medical services or has refused emergency medical services and the health records consist of
1184 the prehospital patient care report required by ~~§ 32.1-116.1~~ 9.1-1319;

1185 28. To law-enforcement officials, in response to their request, for the purpose of identifying or
1186 locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and
1187 Crimes Against Minors Registry Act, material witness, or missing person, provided that only the
1188 following information may be disclosed: (i) name and address of the person, (ii) date and place of birth
1189 of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time
1190 of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii)
1191 description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by
1192 the person.

1193 29. To law-enforcement officials regarding the death of an individual for the purpose of alerting law
1194 enforcement of the death if the health care entity has a suspicion that such death may have resulted
1195 from criminal conduct;

1196 30. To law-enforcement officials if the health care entity believes in good faith that the information
1197 disclosed constitutes evidence of a crime that occurred on its premises;

1198 31. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a
1199 person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article
1200 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of this title; and

1201 32. To the Commissioner of the Department of Labor and Industry or his designee by each licensed
1202 emergency medical services agency when the records consist of the prehospital patient care report
1203 required by ~~§ 32.1-116.1~~ 9.1-1319 and the patient has suffered an injury or death on a work site while
1204 performing duties or tasks that are within the scope of his employment.

1205 Notwithstanding the provisions of subdivisions 1 through 32 of this subsection, a health care entity
1206 shall obtain an individual's written authorization for any disclosure of psychotherapy notes, except when
1207 disclosure by the health care entity is (i) for its own training programs in which students, trainees, or
1208 practitioners in mental health are being taught under supervision to practice or to improve their skills in
1209 group, joint, family, or individual counseling; (ii) to defend itself or its employees or staff against any
1210 accusation of wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of
1211 § 54.1-2400.1, to take precautions to protect third parties from violent behavior or other serious harm;
1212 (iv) required in the course of an investigation, audit, review, or proceeding regarding a health care
1213 entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review
1214 entity; or (v) otherwise required by law.

1215 E. Requests for copies of health records shall (i) be in writing, dated and signed by the requester; (ii)
1216 identify the nature of the information requested; and (iii) include evidence of the authority of the
1217 requester to receive such copies and identification of the person to whom the information is to be
1218 disclosed. The health care entity shall accept a photocopy, facsimile, or other copy of the original signed
1219 by the requestor as if it were an original. Within 15 days of receipt of a request for copies of health
1220 records, the health care entity shall do one of the following: (i) furnish such copies to any requester
1221 authorized to receive them; (ii) inform the requester if the information does not exist or cannot be
1222 found; (iii) if the health care entity does not maintain a record of the information, so inform the
1223 requester and provide the name and address, if known, of the health care entity who maintains the
1224 record; or (iv) deny the request (a) under subsection F, (b) on the grounds that the requester has not
1225 established his authority to receive such health records or proof of his identity, or (c) as otherwise
1226 provided by law. Procedures set forth in this section shall apply only to requests for health records not
1227 specifically governed by other provisions of state law.

F. Except as provided in subsection B of § 8.01-413, copies of an individual's health records shall not be furnished to such individual or anyone authorized to act on the individual's behalf when the individual's treating physician or the individual's treating clinical psychologist has made a part of the individual's record a written statement that, in the exercise of his professional judgment, the furnishing to or review by the individual of such health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that such health record makes reference to a person other than a health care provider and the access requested would be reasonably likely to cause substantial harm to such referenced person. If any health care entity denies a request for copies of health records based on such statement, the health care entity shall inform the individual of the individual's right to designate, in writing, at his own expense, another reviewing physician or clinical psychologist, whose licensure, training and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose opinion the denial is based. The designated reviewing physician or clinical psychologist shall make a judgment as to whether to make the health record available to the individual.

The health care entity denying the request shall also inform the individual of the individual's right to request in writing that such health care entity designate, at its own expense, a physician or clinical psychologist, whose licensure, training, and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial is based and who did not participate in the original decision to deny the health records, who shall make a judgment as to whether to make the health record available to the individual. The health care entity shall comply with the judgment of the reviewing physician or clinical psychologist. The health care entity shall permit copying and examination of the health record by such other physician or clinical psychologist designated by either the individual at his own expense or by the health care entity at its expense.

Any health record copied for review by any such designated physician or clinical psychologist shall be accompanied by a statement from the custodian of the health record that the individual's treating physician or clinical psychologist determined that the individual's review of his health record would be reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely to cause substantial harm to a person referenced in the health record who is not a health care provider.

Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized to act on his behalf.

G. A written authorization to allow release of an individual's health records shall substantially include the following information:

AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS

Individual's Name

Health Care Entity's Name

Person, Agency, or Health Care Entity to whom disclosure is to

be made

Information or Health Records to be disclosed

Purpose of Disclosure or at the Request of the Individual

As the person signing this authorization, I understand that I am giving my

permission to the above-named health care entity for disclosure of

confidential health records. I understand that the health care entity may not

condition treatment or payment on my willingness to sign this authorization

unless the specific circumstances under which such conditioning is permitted

by law are applicable and are set forth in this authorization. I also

understand that I have the right to revoke this authorization at any time, but

that my revocation is not effective until delivered in writing to the person

who is in possession of my health records and is not effective as to health

records already disclosed under this authorization. A copy of this

authorization and a notation concerning the persons or agencies to whom

disclosure was made shall be included with my original health records. I

understand that health information disclosed under this authorization might be

redisclosed by a recipient and may, as a result of such disclosure, no longer

be protected to the same extent as such health information was protected by

law while solely in the possession of the health care entity.

This authorization expires on (date) or (event)

Signature of Individual or Individual's Legal Representative if Individual is

1287 Unable to Sign
1288 Relationship or Authority of Legal Representative
1289 Date of Signature
1290 H. Pursuant to this subsection:
1291 1. Unless excepted from these provisions in subdivision 9 of this subsection,
1292 no party to a civil, criminal or administrative action or proceeding shall
1293 request the issuance of a subpoena duces tecum for another party's health
1294 records or cause a subpoena duces tecum to be issued by an attorney unless a
1295 copy of the request for the subpoena or a copy of the attorney-issued subpoena
1296 is provided to the other party's counsel or to the other party if pro se,
1297 simultaneously with filing the request or issuance of the subpoena. No party
1298 to an action or proceeding shall request or cause the issuance of a subpoena
1299 duces tecum for the health records of a nonparty witness unless a copy of the
1300 request for the subpoena or a copy of the attorney-issued subpoena is provided
1301 to the nonparty witness simultaneously with filing the request or issuance of
1302 the attorney-issued subpoena.
1303 No subpoena duces tecum for health records shall set a return date earlier
1304 than 15 days from the date of the subpoena except by order of a court or
1305 administrative agency for good cause shown. When a court or administrative
1306 agency directs that health records be disclosed pursuant to a subpoena duces
1307 tecum earlier than 15 days from the date of the subpoena, a copy of the order
1308 shall accompany the subpoena.
1309 Any party requesting a subpoena duces tecum for health records or on whose
1310 behalf the subpoena duces tecum is being issued shall have the duty to
1311 determine whether the individual whose health records are being sought is pro
1312 se or a nonparty.
1313 In instances where health records being subpoenaed are those of a pro se party
1314 or nonparty witness, the party requesting or issuing the subpoena shall
1315 deliver to the pro se party or nonparty witness together with the copy of the
1316 request for subpoena, or a copy of the subpoena in the case of an
1317 attorney-issued subpoena, a statement informing them of their rights and
1318 remedies. The statement shall include the following language and the heading
1319 shall be in boldface capital letters:
1320 NOTICE TO INDIVIDUAL
1321 The attached document means that (insert name of party requesting or causing
1322 issuance of the subpoena) has either asked the court or administrative agency
1323 to issue a subpoena or a subpoena has been issued by the other party's
1324 attorney to your doctor, other health care providers (names of health care
1325 providers inserted here) or other health care entity (name of health care
1326 entity to be inserted here) requiring them to produce your health records.
1327 Your doctor, other health care provider or other health care entity is
1328 required to respond by providing a copy of your health records. If you believe
1329 your health records should not be disclosed and object to their disclosure,
1330 you have the right to file a motion with the clerk of the court or the
1331 administrative agency to quash the subpoena. If you elect to file a motion to
1332 quash, such motion must be filed within 15 days of the date of the request or
1333 of the attorney-issued subpoena. You may contact the clerk's office or the
1334 administrative agency to determine the requirements that must be satisfied
1335 when filing a motion to quash and you may elect to contact an attorney to
1336 represent your interest. If you elect to file a motion to quash, you must
1337 notify your doctor, other health care provider(s), or other health care
1338 entity, that you are filing the motion so that the health care provider or
1339 health care entity knows to send the health records to the clerk of court or
1340 administrative agency in a sealed envelope or package for safekeeping while
1341 your motion is decided.
1342 2. Any party filing a request for a subpoena duces tecum or causing such a
1343 subpoena to be issued for an individual's health records shall include a

Notice in the same part of the request in which the recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice shall be in boldface capital letters and shall include the following language:

NOTICE TO HEALTH CARE ENTITIES

A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.

YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:

NO MOTION TO QUASH WAS FILED; OR

ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH SUCH RESOLUTION.

IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE FOLLOWING PROCEDURE:

PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE AGENCY.

3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8 of this subsection.

4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such health records until they have received a certification as set forth in subdivision 5 or 8 of this subsection from the party on whose behalf the subpoena duces tecum was issued.

If the health care entity has actual receipt of notice that a motion to quash the subpoena has been filed or if the health care entity files a motion to quash the subpoena for health records, then the health care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or administrative agency issuing the subpoena or in whose court or administrative agency the action is pending. The court or administrative agency shall place the health records under seal until a determination is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the judge or administrative agency. In the event the court or administrative agency grants the motion to quash, the health records shall be returned to the health care entity in the same sealed envelope in which they were delivered to the court or administrative agency. In the event that a judge or administrative agency orders the sealed envelope to be opened to review the health records in camera, a copy of the order shall accompany any health records returned to the health care entity. The health records returned to the health care entity shall be in a securely sealed envelope.

5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion to

quash was filed. Any health care entity receiving such certification shall have the duty to comply with the subpoena duces tecum by returning the specified health records by either the return date on the subpoena or five days after receipt of the certification, whichever is later.

6. In the event that the individual whose health records are being sought files a motion to quash the subpoena, the court or administrative agency shall decide whether good cause has been shown by the discovering party to compel disclosure of the individual's health records over the individual's objections. In determining whether good cause has been shown, the court or administrative agency shall consider (i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.

7. Concurrent with the court or administrative agency's resolution of a motion to quash, if subpoenaed health records have been submitted by a health care entity to the court or administrative agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no submitted health records should be disclosed, return all submitted health records to the health care entity in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon determining that only a portion of the submitted health records should be disclosed, provide such portion to the party on whose behalf the subpoena was issued and return the remaining health records to the health care entity in a sealed envelope.

8. Following the court or administrative agency's resolution of a motion to quash, the party on whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health care entity a statement of one of the following:

a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be returned to the health care entity;

b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by the return date on the subpoena or five days after receipt of certification, whichever is later;

c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will be returned to the health care entity;

d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure has been authorized. The certification shall state that only the portion of the health records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification shall also state that health records that were previously delivered to the court or

administrative agency for which disclosure has been authorized will not be returned to the health care entity; however, all health records for which disclosure has not been authorized will be returned to the health care entity; or

e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall return only those health records specified in the certification, consistent with the court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the certification, whichever is later.

A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to this subdivision.

9. The provisions of this subsection have no application to subpoenas for health records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a health care entity's conduct.

The provisions of this subsection shall apply to subpoenas for the health records of both minors and adults.

Nothing in this subsection shall have any effect on the existing authority of a court or administrative agency to issue a protective order regarding health records, including, but not limited to, ordering the return of health records to a health care entity, after the period for filing a motion to quash has passed.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

I. Health care entities may testify about the health records of an individual in compliance with §§ 8.01-399 and 8.01-400.2.

J. If an individual requests a copy of his health record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor of copying the requested information, postage when the individual requests that such information be mailed, and preparation of an explanation or summary of such information as agreed to by the individual. For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the individual who is the subject of the health record in making decisions related to his health care.

§ 40.1-8. Other officers to furnish information; protected health information under certain circumstances.

A. All State, county, town and city officers shall furnish the Commissioner, upon his request, such statistical or other information as may be in their possession as such officers that will assist the Department in the discharge of its duties.

B. In the discharge of his duties to ensure compliance with federal law and regulation relating to the health and safety of Virginia's workforce and prevention of work-related injuries, disabilities, and deaths, each licensed emergency medical services agency shall release to the Commissioner or his designee the prehospital patient care report required by § ~~32.1-16.4~~ *9.1-1319* when such records are requested for a patient who has suffered an injury, disability or death resulting from an accident or illness that occurred while engaged in his employment without obtaining consent or authorization for such disclosure from the person who is the subject of the records. The patient's health records shall be confidential. The Commissioner and any designee shall only redisclose such protected health information in compliance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended.

§ 46.2-694. (Contingent expiration date - see Editor's note) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

- 1515 1. Thirty-three dollars for each private passenger car or motor home if the passenger car or motor
1516 home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for
1517 compensation and is not kept or used for rent or for hire, or is not operated under a lease without a
1518 chauffeur.
- 1519 2. Thirty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds,
1520 provided that it is not used for the transportation of passengers for compensation and is not kept or used
1521 for rent or for hire, or is not operated under a lease without a chauffeur.
- 1522 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a
1523 motorcycle with a normal seating capacity of more than 10 adults including the driver if the private
1524 motor vehicle is not used for the transportation of passengers for compensation and is not kept or used
1525 for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less
1526 than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000
1527 pounds.
- 1528 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be
1529 less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000
1530 pounds.
- 1531 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human
1532 beings.
- 1533 6. Thirteen dollars plus \$ 0.30 per 100 pounds or major fraction thereof for each motor vehicle,
1534 trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate.
1535 Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed
1536 in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and
1537 equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more
1538 than 4,000 pounds.
- 1539 7. Thirteen dollars plus \$ 0.70 per 100 pounds or major fraction thereof for each motor vehicle,
1540 trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed
1541 under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000
1542 pounds. In lieu of the foregoing fee of \$ 0.70 per 100 pounds, a motor carrier of passengers, operating
1543 two or more vehicles both within and outside the Commonwealth and registered for insurance purposes
1544 with the Surface Transportation Board of the United States Department of Transportation, Federal
1545 Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of
1546 such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the
1547 registration fees provided in this subsection so that the total registration fees to be paid for such vehicles
1548 of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total
1549 number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total
1550 number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in
1551 each instance is the estimated total mileage to be traveled by such vehicles during the license year for
1552 which such fees are paid, subject to the adjustment in accordance with an audit to be made by
1553 representatives of the Commissioner at the end of such license year, the expense of such audit to be
1554 borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and
1555 licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less
1556 than \$33. For the purpose of determining such apportioned registration fees, only those motor vehicles,
1557 trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion
1558 in determining the apportionment provided for herein.
- 1559 8. Thirteen dollars plus \$ 0.80 per 100 pounds or major fraction thereof for each motor vehicle,
1560 trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for
1561 the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more
1562 than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.
- 1563 9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a
1564 chauffeur for the transportation of passengers, and which operates or should operate under permits issued
1565 by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs
1566 more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.
- 1567 10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a
1568 surcharge of \$3 which shall be distributed as provided in § 46.2-1191.
- 1569 11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for
1570 the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of
1571 the vehicle exceeds 4,000 pounds, the fee shall be \$28.
- 1572 12. Thirteen dollars plus \$ 0.70 per 100 pounds or major fraction thereof for other passenger-carrying
1573 vehicles.
- 1574 13. An additional fee of \$4 per year shall be charged and collected at the time of registration of each
1575 pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All
1576 funds collected pursuant to this subdivision shall be paid into the state treasury and shall be set aside as

a special fund to be used only for emergency medical service purposes. The moneys in the special fund shall be distributed as follows:

a. Two percent shall be distributed to the ~~State~~ Department of ~~Health~~ *Emergency Medical Services* to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the ~~State~~ Department of ~~Health~~ *Emergency Medical Services* to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services ~~Advisory~~ Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § ~~32.1-111.3~~ *9.1-1305*; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the ~~State~~ Department of ~~Health's~~ *Office of Emergency Medical Services* for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of ~~Health~~ *Emergency Medical Services* on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-694. (Contingent effective date - see Editor's note) Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. Twenty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. Twenty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be

1638 less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000
1639 pounds.

1640 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human
1641 beings.

1642 6. Thirteen dollars plus \$ 0.30 per 100 pounds or major fraction thereof for each motor vehicle,
1643 trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate.
1644 Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed
1645 in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and
1646 equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more
1647 than 4,000 pounds.

1648 7. Thirteen dollars plus \$ 0.70 per 100 pounds or major fraction thereof for each motor vehicle,
1649 trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed
1650 under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000
1651 pounds. In lieu of the foregoing fee of \$ 0.70 per 100 pounds, a motor carrier of passengers, operating
1652 two or more vehicles both within and outside the Commonwealth and registered for insurance purposes
1653 with the Surface Transportation Board of the United States Department of Transportation, Federal
1654 Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of
1655 such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the
1656 registration fees provided in this subsection so that the total registration fees to be paid for such vehicles
1657 of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total
1658 number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total
1659 number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in
1660 each instance is the estimated total mileage to be traveled by such vehicles during the license year for
1661 which such fees are paid, subject to the adjustment in accordance with an audit to be made by
1662 representatives of the Commissioner at the end of such license year, the expense of such audit to be
1663 borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and
1664 licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less
1665 than \$33. For the purpose of determining such apportioned registration fees, only those motor vehicles,
1666 trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion
1667 in determining the apportionment provided for herein.

1668 8. Thirteen dollars plus \$ 0.80 per 100 pounds or major fraction thereof for each motor vehicle,
1669 trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for
1670 the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more
1671 than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

1672 9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a
1673 chauffeur for the transportation of passengers, and which operates or should operate under permits issued
1674 by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs
1675 more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

1676 10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a
1677 surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

1678 11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for
1679 the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of
1680 the vehicle exceeds 4,000 pounds, the fee shall be \$28.

1681 12. Thirteen dollars plus \$ 0.70 per 100 pounds or major fraction thereof for other passenger-carrying
1682 vehicles.

1683 13. An additional fee of \$4 per year shall be charged and collected at the time of registration of each
1684 pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All
1685 funds collected pursuant to this subdivision shall be paid into the state treasury and shall be set aside as
1686 a special fund to be used only for emergency medical service purposes. The moneys in the special fund
1687 shall be distributed as follows:

1688 a. Two percent shall be distributed to the ~~State Department of Health~~ *Emergency Medical Services* to
1689 provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the
1690 purpose of conducting volunteer recruitment, retention and training activities;

1691 b. Thirty percent shall be distributed to the ~~State Department of Health~~ *Emergency Medical Services*
1692 to support (i) emergency medical services training programs (excluding advanced life support classes);
1693 (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support
1694 shall be used to recruit and retain volunteer emergency medical services personnel only, including public
1695 awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical
1696 services system development, initiatives, and priorities based on needs identified by the State Emergency
1697 Medical Services ~~Advisory~~ Board; (v) local, regional, and statewide performance contracts for
1698 emergency medical services to meet the objectives stipulated in § ~~32.1-111.3~~ *9.1-1305*; (vi) technology
1699 and radio communication enhancements; and (vii) improved emergency preparedness and response. Any

funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health Emergency Medical Services on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;
2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;
3. Park or stop notwithstanding the other provisions of this chapter;
4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;
5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;

6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; or

7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A of this section shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary, and, only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least \$100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § 46.2-368. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property.

1761 Nothing in this section shall release the operator of any such vehicle from civil liability for failure to
1762 use reasonable care in such operation.

1763 C. For the purposes of this section, the term "emergency vehicle" shall mean:

1764 1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
1765 law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with
1766 or suspected of any such violation or (ii) in response to an emergency call;

1767 2. Any regional detention center vehicle operated by or under the direction of a correctional officer
1768 responding to an emergency call or operating in an emergency situation;

1769 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when
1770 traveling in response to a fire alarm or emergency call;

1771 4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of
1772 supplying resuscitation or emergency relief where human life is endangered;

1773 5. Any Department of Emergency Management vehicle or ~~Office~~Department of Emergency Medical
1774 Services vehicle, when responding to an emergency call or operating in an emergency situation;

1775 6. Any Department of Corrections vehicle designated by the Director of the Department of
1776 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a
1777 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a
1778 request for assistance from a law-enforcement officer; and

1779 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white
1780 secondary warning lights under the provisions of § 46.2-1029.2.

1781 D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
1782 law-enforcement officer may disregard speed limits, while having due regard for safety of persons and
1783 property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of
1784 speed measuring devices specified in § 46.2-882, or (iii) in following another vehicle for the purpose of
1785 determining its speed.

1786 E. A Department of Environmental Quality vehicle, while en route to an emergency and with due
1787 regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by
1788 going off the paved or main traveled portion of the highway on the right or on the left. These
1789 Department of Environmental Quality vehicles shall not be required to sound a siren or any device to
1790 give automatically intermittent signals, but shall display red or red and white warning lights when
1791 performing such maneuvers.

1792 F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
1793 law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any
1794 other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting
1795 himself to criminal prosecution:

1796 1. Disregard speed limits, while having due regard for safety of persons and property;

1797 2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving
1798 traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic
1799 light, or device with due regard for the safety of persons and property;

1800 3. Park or stop notwithstanding the other provisions of this chapter;

1801 4. Disregard regulations governing a direction of movement of vehicles turning in specified directions
1802 so long as the operator does not endanger life or property; or

1803 5. Pass or overtake, with due regard for the safety of persons and property, another vehicle.

1804 Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a
1805 siren or any device to give automatically intermittent signals.

1806 § 46.2-1023. Flashing red or red and white warning lights.

1807 Fire apparatus, forest warden vehicles, ambulances, rescue and life-saving vehicles, vehicles of the
1808 Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles
1809 of county, city, or town Departments of Emergency Management, vehicles of the ~~Office~~Department of
1810 Emergency Medical Services, animal warden vehicles, and vehicles used by security personnel of the
1811 Newport News Shipbuilding and Dry Dock Company, Bassett-Walker, Inc., Tultex Corporation, the
1812 Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility,
1813 and, within those areas specified in their orders of appointment, by special conservators of the peace and
1814 policemen for certain places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with
1815 flashing, blinking, or alternating red or red and white combination warning lights of types approved by
1816 the Superintendent.

1817 § 53.1-133.03. Exchange of medical and mental health information and records.

1818 Notwithstanding any other provision of law relating to disclosure and confidentiality of patient
1819 records maintained by a health care provider, medical and mental health information and records of any
1820 person committed to jail, and transferred to another correctional facility, may be exchanged among the
1821 following:

1822 1. Administrative personnel of the correctional facilities involved and of the administrative personnel

within the holding facility when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the holding facility, its employees, or prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the safety and security of the facility.

2. Members of the Parole Board or its designees, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.

3. Probation and parole officers for use in parole and probation planning, release and supervision.

4. Officials of the facilities involved and officials within the holding facility for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental and mental health care, treatment and other such programs.

5. Medical and mental health hospitals and facilities, both public and private, including community service boards and health departments, for use in treatment while committed to jail or a correctional facility while under supervision of a probation or parole officer.

Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in §§ 32.1-36.1 and ~~32.1-116.3~~ 9.1-1322.

The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Board of Corrections which govern confidentiality of such records. Medical and mental health information concerning a prisoner which has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

Nothing contained in this section shall prohibit the release of records to the Department of Health Professions or health regulatory boards consistent with Subtitle III (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia.

§ 54.1-2819. Registration of surface transportation and removal services.

Any person or private business, except a common carrier engaged in interstate commerce, the Commonwealth and its agencies, or an emergency medical services agency holding a permit issued by the ~~Commissioner of Health~~ *Director of Emergency Medical Services* pursuant to § ~~32.1-111.6~~ 9.1-1308, shall apply for and receive a registration as a transportation and removal service in order to be authorized to engage in the business of surface transportation or removal of dead human bodies in this Commonwealth.

Surface transportation and removal services shall not arrange or conduct funerals, provide for the care or preparation, including embalming, of dead human bodies, or sell or provide funeral-related goods and services without the issuance of a funeral service establishment license.

The Board of Funeral Directors and Embalmers shall promulgate regulations for such registration including proper procedures in the handling of all dead human bodies being transported, application process for registration, and establishment of registration fees. These regulations shall not require the use of a casket for transportation. No licensed funeral service establishment shall be required to receive such registration in addition to its funeral service establishment license. However, such establishment shall be subject to the regulations pertaining to transportation and removal services.

All registrations as a surface transportation and removal service shall be renewed annually and no person, private business or funeral service establishment shall engage in the business as a surface transportation and removal service without holding a valid registration.

Any surface transportation or removal service which is not registered or persons who knowingly engage in transportation or removal services without registration shall be subject to the disciplinary actions provided in this chapter.

This section shall not be construed to prohibit private individuals from transporting or removing the remains of deceased family members and relatives either by preference or in observation of religious beliefs and customs.

§ 54.1-2901. Exceptions and exemptions generally.

A. The provisions of this chapter shall not prevent or prohibit:

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

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

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

4. Any registered professional nurse, licensed nurse practitioner, graduate laboratory technician or

1884 other technical personnel who have been properly trained from rendering care or services within the
1885 scope of their usual professional activities which shall include the taking of blood, the giving of
1886 intravenous infusions and intravenous injections, and the insertion of tubes when performed under the
1887 orders of a person licensed to practice medicine;

1888 5. Any dentist, pharmacist or optometrist from rendering care or services within the scope of his
1889 usual professional activities;

1890 6. Any practitioner licensed or certified by the Board from delegating to personnel supervised by
1891 him, such activities or functions as are nondiscretionary and do not require the exercise of professional
1892 judgment for their performance and which are usually or customarily delegated to such persons by
1893 practitioners of the healing arts, if such activities or functions are authorized by and performed for such
1894 practitioners of the healing arts and responsibility for such activities or functions is assumed by such
1895 practitioners of the healing arts;

1896 7. The rendering of medical advice or information through telecommunications from a physician
1897 licensed to practice medicine in Virginia or an adjoining state to emergency medical personnel acting in
1898 an emergency situation;

1899 8. The domestic administration of family remedies;

1900 9. The giving or use of massages, steam baths, dry heat rooms, infrared heat or ultraviolet lamps in
1901 public or private health clubs and spas;

1902 10. The manufacture or sale of proprietary medicines in this Commonwealth by licensed pharmacists
1903 or druggists;

1904 11. The advertising or sale of commercial appliances or remedies;

1905 12. The fitting by nonitinerant persons or manufacturers of artificial eyes, limbs or other apparatus or
1906 appliances or the fitting of plaster cast counterparts of deformed portions of the body by a nonitinerant
1907 bracer or prosthetist for the purpose of having a three-dimensional record of the deformity, when
1908 such bracer or prosthetist has received a prescription from a licensed physician directing the fitting
1909 of such casts and such activities are conducted in conformity with the laws of Virginia;

1910 13. Any person from the rendering of first aid or medical assistance in an emergency in the absence
1911 of a person licensed to practice medicine or osteopathy under the provisions of this chapter;

1912 14. The practice of the religious tenets of any church in the ministration to the sick and suffering by
1913 mental or spiritual means without the use of any drug or material remedy, whether gratuitously or for
1914 compensation;

1915 15. Any legally qualified out-of-state or foreign practitioner from meeting in consultation with legally
1916 licensed practitioners in this Commonwealth;

1917 16. Any practitioner of the healing arts licensed or certified and in good standing with the applicable
1918 regulatory agency in another state or Canada when that practitioner of the healing arts is in Virginia
1919 temporarily and such practitioner has been issued a temporary license or certification by the Board from
1920 practicing medicine or the duties of the profession for which he is licensed or certified (i) in a summer
1921 camp or in conjunction with patients who are participating in recreational activities, (ii) while
1922 participating in continuing educational programs prescribed by the Board, or (iii) by rendering at any
1923 site any health care services within the limits of his license, voluntarily and without compensation, to
1924 any patient of any clinic which is organized in whole or in part for the delivery of health care services
1925 without charge as provided in § 54.1-106;

1926 17. The performance of the duties of any commissioned or contract medical officer, or podiatrist in
1927 active service in the army, navy, coast guard, marine corps, air force, or public health service of the
1928 United States while such individual is so commissioned or serving;

1929 18. Any masseur, who publicly represents himself as such, from performing services within the scope
1930 of his usual professional activities and in conformance with state law;

1931 19. Any person from performing services in the lawful conduct of his particular profession or
1932 business under state law;

1933 20. Any person from rendering emergency care pursuant to the provisions of § 8.01-225;

1934 21. Qualified emergency medical services personnel, when acting within the scope of their
1935 certification, and licensed health care practitioners, when acting within their scope of practice, from
1936 following Durable Do Not Resuscitate Orders issued in accordance with § 54.1-2987.1 and Board of
1937 ~~Health~~*Emergency Medical Services* regulations, or licensed health care practitioners from following any
1938 other written order of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest;

1939 22. Any commissioned or contract medical officer of the army, navy, coast guard or air force
1940 rendering services voluntarily and without compensation while deemed to be licensed pursuant to
1941 § 54.1-106;

1942 23. Any provider of a chemical dependency treatment program who is certified as an "acupuncture
1943 detoxification specialist" by the National Acupuncture Detoxification Association or an equivalent
1944 certifying body, from administering auricular acupuncture treatment under the appropriate supervision of
1945 a National Acupuncture Detoxification Association certified licensed physician or licensed acupuncturist;

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

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

26. Any employee of a school board, authorized by a prescriber and trained in the administration of insulin and glucagon, when, upon the authorization of a prescriber and the written request of the parents as defined in § 22.1-1, assisting with the administration of insulin or administering glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia;

27. Any practitioner of the healing arts or other profession regulated by the Board from rendering free health care to an underserved population of Virginia who (i) does not regularly practice his profession in Virginia, (ii) holds a current valid license or certificate to practice his profession in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world, (iv) files a copy of the license or certification issued in such other jurisdiction with the Board, (v) notifies the Board at least 15 days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any practitioner of the healing arts whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations;

28. Any registered nurse, acting as an agent of the Department of Health, from obtaining specimens of sputum or other bodily fluid from persons in whom the diagnosis of active tuberculosis disease, as defined in § 32.1-49.1, is suspected and submitting orders for testing of such specimens to the Division of Consolidated Laboratories or other public health laboratories, designated by the State Health Commissioner, for the purpose of determining the presence or absence of tubercle bacilli as defined in § 32.1-49.1;

29. Any physician of medicine or osteopathy or nurse practitioner from delegating to a registered nurse under his supervision the screening and testing of children for elevated blood-lead levels when such testing is conducted (i) in accordance with a written protocol between the physician or nurse practitioner and the registered nurse and (ii) in compliance with the Board of Health's regulations promulgated pursuant to §§ 32.1-46.1 and 32.1-46.2. Any follow-up testing or treatment shall be conducted at the direction of a physician or nurse practitioner;

30. Any practitioner of one of the professions regulated by the Board of Medicine who is in good standing with the applicable regulatory agency in another state or Canada from engaging in the practice of that profession when the practitioner is in Virginia temporarily with an out-of-state athletic team or athlete for the duration of the athletic tournament, game, or event in which the team or athlete is competing; or

31. Any licensed nurse practitioner in the category of certified nurse midwife from rendering care in collaboration and consultation with a duly licensed physician when such services are authorized by regulations promulgated jointly by the Board of Medicine and the Board of Nursing.

B. Notwithstanding any provision of law or regulation to the contrary, a nurse practitioner licensed by the Boards of Nursing and Medicine in the category of certified nurse midwife may practice without the requirement for physician supervision while participating in a pilot program approved by the Board of Health pursuant to § 32.1-11.5.

§ 54.1-2969. Authority to consent to surgical and medical treatment of certain minors.

A. Whenever any minor who has been separated from the custody of his parent or guardian is in need of surgical or medical treatment, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, as follows:

1. Upon judges with respect to minors whose custody is within the control of their respective courts.

2. Upon local directors of social services or their designees with respect to (i) minors who are committed to the care and custody of the local board by courts of competent jurisdiction, (ii) minors who are taken into custody pursuant to § 63.2-1517, and (iii) minors who are entrusted to the local board by the parent, parents or guardian, when the consent of the parent or guardian cannot be obtained immediately and, in the absence of such consent, a court order for such treatment cannot be obtained immediately.

2007 3. Upon the Director of the Department of Corrections or the Director of the Department of Juvenile
2008 Justice or his designees with respect to any minor who is sentenced or committed to his custody.

2009 4. Upon the principal executive officers of state institutions with respect to the wards of such
2010 institutions.

2011 5. Upon the principal executive officer of any other institution or agency legally qualified to receive
2012 minors for care and maintenance separated from their parents or guardians, with respect to any minor
2013 whose custody is within the control of such institution or agency.

2014 6. Upon any person standing in loco parentis, or upon a conservator or custodian for his ward or
2015 other charge under disability.

2016 B. Whenever the consent of the parent or guardian of any minor who is in need of surgical or
2017 medical treatment is unobtainable because such parent or guardian is not a resident of the
2018 Commonwealth or his whereabouts is unknown or he cannot be consulted with promptness reasonable
2019 under the circumstances, authority commensurate with that of a parent in like cases is conferred, for the
2020 purpose of giving consent to such surgical or medical treatment, upon judges of juvenile and domestic
2021 relations district courts.

2022 C. Whenever delay in providing medical or surgical treatment to a minor may adversely affect such
2023 minor's recovery and no person authorized in this section to consent to such treatment for such minor is
2024 available within a reasonable time under the circumstances, no liability shall be imposed upon qualified
2025 emergency medical services personnel as defined in § ~~32.1-111.1~~ 9.1-1301 at the scene of an accident,
2026 fire or other emergency, a licensed health professional, or a licensed hospital by reason of lack of
2027 consent to such medical or surgical treatment. However, in the case of a minor 14 years of age or older
2028 who is physically capable of giving consent, such consent shall be obtained first.

2029 D. Whenever delay in providing transportation to a minor from the scene of an accident, fire or other
2030 emergency prior to hospital admission may adversely affect such minor's recovery and no person
2031 authorized in this section to consent to such transportation for such minor is available within a
2032 reasonable time under the circumstances, no liability shall be imposed upon emergency medical services
2033 personnel as defined in § ~~32.1-111.1~~ 9.1-1301, by reason of lack of consent to such transportation.
2034 However, in the case of a minor 14 years of age or older who is physically capable of giving consent,
2035 such consent shall be obtained first.

2036 E. A minor shall be deemed an adult for the purpose of consenting to:

2037 1. Medical or health services needed to determine the presence of or to treat venereal disease or any
2038 infectious or contagious disease that the State Board of Health requires to be reported;

2039 2. Medical or health services required in case of birth control, pregnancy or family planning except
2040 for the purposes of sexual sterilization;

2041 3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for
2042 substance abuse as defined in § 37.2-100; or

2043 4. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for
2044 mental illness or emotional disturbance.

2045 A minor shall also be deemed an adult for the purpose of accessing or authorizing the disclosure of
2046 medical records related to subdivisions 1 through 4.

2047 F. Except for the purposes of sexual sterilization, any minor who is or has been married shall be
2048 deemed an adult for the purpose of giving consent to surgical and medical treatment.

2049 G. A pregnant minor shall be deemed an adult for the sole purpose of giving consent for herself and
2050 her child to surgical and medical treatment relating to the delivery of her child when such surgical or
2051 medical treatment is provided during the delivery of the child or the duration of the hospital admission
2052 for such delivery; thereafter, the minor mother of such child shall also be deemed an adult for the
2053 purpose of giving consent to surgical and medical treatment for her child.

2054 H. Any minor 17 years of age may, with the consent of a parent or legal guardian, consent to donate
2055 blood and may donate blood if such minor meets donor eligibility requirements. However, parental
2056 consent to donate blood by any minor 17 years of age shall not be required if such minor receives no
2057 consideration for his blood donation and the procurer of the blood is a nonprofit, voluntary organization.

2058 I. Any judge, local director of social services, Director of the Department of Corrections, Director of
2059 the Department of Juvenile Justice, or principal executive officer of any state or other institution or
2060 agency who consents to surgical or medical treatment of a minor in accordance with this section shall
2061 make a reasonable effort to notify the minor's parent or guardian of such action as soon as practicable.

2062 J. Nothing in subsection G shall be construed to permit a minor to consent to an abortion without
2063 complying with § 16.1-241.

2064 K. Nothing in subsection E shall prevent a parent, legal guardian or person standing in loco parentis
2065 from obtaining (i) the results of a minor's nondiagnostic drug test when the minor is not receiving care,
2066 treatment or rehabilitation for substance abuse as defined in § 37.2-100 or (ii) a minor's other health
2067 records, except when the minor's treating physician or the minor's treating clinical psychologist has
2068 determined, in the exercise of his professional judgment, that the disclosure of health records to the

parent, legal guardian, or person standing in loco parentis would be reasonably likely to cause substantial harm to the minor or another person pursuant to subsection B of § 20-124.6.

§ 54.1-2987.1. Durable Do Not Resuscitate Orders.

A. A Durable Do Not Resuscitate Order may be issued by a physician for his patient with whom he has a bona fide physician/patient relationship as defined in the guidelines of the Board of Medicine, and only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.

B. This section shall not authorize any health care provider or practitioner to follow a Durable Do Not Resuscitate Order for any patient who is able to, and does, express to such health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest.

If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall so revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order.

The expression of such desire to be resuscitated prior to cardiac or respiratory arrest shall constitute revocation of the Order; however, a new Order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.

C. Durable Do Not Resuscitate Orders issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this section and regulations promulgated by the Board of HealthEmergency Medical Services, (i) qualified emergency medical services personnel as defined in § 32.1-111.1 9.1-1301 and (ii) licensed health care practitioners in any facility, program or organization operated or licensed by the Board of Health or by the Department of Mental Health, Mental Retardation and Substance Abuse Services or operated, licensed or owned by another state agency are authorized to follow Durable Do Not Resuscitate Orders that are available to them in a form approved by the Board of HealthEmergency Medical Services.

D. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw treatment if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing treatment pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision. Further, this section shall not authorize the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

E. For the purposes of this section:

"Health care provider" includes, but is not limited to, qualified emergency medical services personnel.

"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.

F. This section shall not prevent, prohibit or limit a physician from issuing a written order, other than a Durable Do Not Resuscitate Order, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practice.

G. Valid Do Not Resuscitate Orders or Emergency Medical Services Do Not Resuscitate Orders issued before July 1, 1999, pursuant to the then-current law, shall remain valid and shall be given effect as provided in this article.

§ 57-60. Exemptions.

A. The following persons shall be exempt from the registration requirements of § 57-49, but shall otherwise be subject to the provisions of this chapter:

1. Educational institutions that are accredited by the Board of Education, by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, the Association Montessori Internationale, the American Montessori Society, the Virginia Independent Schools Association, or the Virginia Association of Independent Schools, any foundation having an established identity with any of the aforementioned educational institutions, and any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

2. Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned

2130 over to the named beneficiary for his use.

2131 3. Charitable organizations that do not intend to solicit and receive, during a calendar year, and have
2132 not actually raised or received, during any of the three next preceding calendar years, contributions from
2133 the public in excess of \$5,000, if all of their functions, including fund-raising activities, are carried on
2134 by persons who are unpaid for their services and if no part of their assets or income inures to the
2135 benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public,
2136 whether all of such are or are not received by any charitable organization during any calendar year, shall
2137 be in excess of \$5,000, it shall, within 30 days after the date it has received total contributions in excess
2138 of \$5,000, register with and report to the Commissioner as required by this chapter.

2139 4. Organizations that solicit only within the membership of the organization by the members thereof.

2140 5. Organizations that have no office within the Commonwealth, that solicit in the Commonwealth
2141 from without the Commonwealth solely by means of telephone or telegraph, direct mail or advertising in
2142 national media, and that have a chapter, branch, or affiliate within the Commonwealth that has registered
2143 with the Commissioner.

2144 6. Organizations that have been granted tax-exempt status under § 501 (c) (3) of the Internal Revenue
2145 Code and that are organized wholly as Area Health Education Centers in accordance with § 32.1-122.7.

2146 7. Health care institutions defined herein as any facilities that have been granted tax-exempt status
2147 under § 501 (c) (3) of the Internal Revenue Code, and that are (i) licensed by the Department of Health
2148 or the Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) designated
2149 by the Health Care Financing Administration (HCFA) as federally qualified health centers; (iii) certified
2150 by the HCFA as rural health clinics; or (iv) wholly organized for the delivery of health care services
2151 without charge; and any supporting organization that exists solely to support any such health care
2152 institutions. For the purposes of clause (iv), "delivery of health care services without charge" includes
2153 the delivery of dental, medical or other health services where a reasonable minimum fee is charged to
2154 cover administrative costs.

2155 8. Civic organizations as defined herein.

2156 9. Nonprofit debt counseling agencies licensed pursuant to Chapter 10.2 (§ 6.1-363.2 et seq.) of Title
2157 6.1.

2158 10. Agencies designated by the Virginia Department for the Aging pursuant to subdivision A 6 of
2159 § 2.2-703 as area agencies on aging.

2160 11. Labor unions, labor associations and labor organizations that have been granted tax-exempt status
2161 under § 501 (c) (5) of the Internal Revenue Code.

2162 12. Trade associations that have been granted tax-exempt status under § 501 (c) (6) of the Internal
2163 Revenue Code.

2164 13. Organizations that have been granted tax-exempt status under § 501 (c) (3) of the Internal
2165 Revenue Code and that are organized wholly as regional emergency medical services councils in
2166 accordance with ~~§ 32.1-144.14~~ 9.1-1312.

2167 14. Nonprofit organizations that have been granted tax-exempt status under § 501 (c) (3) of the
2168 Internal Revenue Code and that solicit contributions only through (i) grant proposals submitted to
2169 for-profit corporations, (ii) grant proposals submitted to other nonprofit organizations that have been
2170 granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code, or (iii) grant proposals
2171 submitted to organizations determined to be private foundations under § 509 (a) of the Internal Revenue
2172 Code.

2173 B. A charitable organization shall be subject to the provisions of §§ 57-57 and 57-59, but shall
2174 otherwise be exempt from the provisions of this chapter for any year in which it confines its
2175 solicitations in the Commonwealth to five or fewer contiguous cities and counties, and in which it has
2176 registered under the charitable solicitations ordinance, if any, of each such city and county. No
2177 organization shall be exempt under this subsection if, during its next preceding fiscal year, more than 10
2178 percent of its gross receipts were paid to any person or combination of persons, located outside the
2179 boundaries of such cities and counties, other than for the purchase of real property, or tangible personal
2180 property or personal services to be used within such localities. An organization that is otherwise
2181 qualified for exemption under this subsection that solicits by means of a local publication, or radio or
2182 television station, shall not be disqualified solely because the circulation or range of such medium
2183 extends beyond the boundaries of such cities or counties.

2184 C. No charitable or civic organization shall be exempt under this section unless it submits to the
2185 Commissioner, who in his discretion may extend such filing deadline prospectively or retrospectively for
2186 good cause shown, on forms to be prescribed by him, the name, address and purpose of the organization
2187 and a statement setting forth the reason for the claim for exemption. Parent organizations may file
2188 consolidated applications for exemptions for any chapters, branches, or affiliates that they believe to be
2189 exempt from the registration provisions of this chapter. If the organization is exempted, the
2190 Commissioner shall issue a letter of exemption, which may be exhibited to the public. A registration fee
2191 of \$10 shall be required of every organization requesting an exemption after June 30, 1984. The letter of

exemption shall remain in effect as long as the organization continues to solicit in accordance with its claim for exemption.

D. Nothing in this chapter shall be construed as being applicable to the American Red Cross or any of its local chapters.

§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;

2. Any mental health services provider as defined in § 54.1-2400.1;

3. Any emergency medical services personnel certified by the Board of ~~Health~~*Emergency Medical Services* pursuant to ~~§ 32.1-111.5~~ *§ 9.1-1307*;

4. Any guardian or conservator of an adult;

5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;

6. Any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to, companion, chore, homemaker, and personal care workers; and

7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected exploitation to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section, financial institution staff means any employee of a bank, savings institution, credit union, securities firm, accounting firm, or insurance company.

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

2253 G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse,
2254 neglect, or exploitation that he knows to be false shall be guilty of a Class 4 misdemeanor. Any
2255 subsequent conviction of this provision shall be a Class 2 misdemeanor.

2256 H. Any person who fails to make a required report or notification pursuant to subsection A shall be
2257 subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more
2258 than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a
2259 court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be
2260 determined by the Commissioner or his designee. The Board shall establish by regulation a process for
2261 imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty
2262 pursuant to § 2.2-4026 of the Administrative Process Act.

2263 I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse
2264 or neglect shall immediately report such suspicion to the appropriate medical examiner and to the
2265 appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a
2266 licensed physician. The medical examiner and the law-enforcement agency shall receive the report and
2267 determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is
2268 conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the
2269 local department or to the adult protective services hotline.

2270 J. No person or entity shall be obligated to report any matter if the person or entity has actual
2271 knowledge that the same matter has already been reported to the local department or to the adult
2272 protective services hotline.

2273 K. All law-enforcement departments and other state and local departments, agencies, authorities and
2274 institutions shall cooperate with each adult protective services worker of a local department in the
2275 detection, investigation and prevention of adult abuse, neglect and exploitation.

2276 **2. That §§ 32.1-111.1 through 32.1-116.3 of the Code of Virginia are repealed.**

2277 **3. That as of July 1, 2008, the Department of Emergency Medical Services shall be deemed**
2278 **successor in interest to the Office of Emergency Services within the Department of Health to the**
2279 **extent that this act transfers powers and duties. All right, title, and interest in and to any real or**
2280 **tangible personal property vested in the Office of Emergency Services within the Department of**
2281 **Health shall be transferred to and taken as standing in the name of the Department of Emergency**
2282 **Medical Services.**

2283 **4. That the Governor may transfer an appropriation or any portion thereof within a state agency**
2284 **established, abolished, or otherwise affected by the provisions of this act, or from one such agency**
2285 **to another, to support the changes in organization or responsibility resulting from or required by**
2286 **the provisions of this act.**

2287 **5. That all rules and regulations adopted by the Office of Emergency Services or the Department**
2288 **of Health that are in effect as of July 1, 2008 and that pertain to the subject of this act, shall**
2289 **remain in full force and effect until altered, amended, or rescinded by the Department of**
2290 **Emergency Medical Services.**