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HOUSE BILL NO. 698

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 32.1-129, 44-146.19, and 63.2-1701 of the Code of Virginia, relating to licensure of nursing homes, assisted living facilities, adult day care centers, and child day centers; emergency plans.

Patron—Bulova

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-129, 44-146.19, and 63.2-1701 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-129. Application for license.

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

B. *No nursing home license shall be granted unless and until the applicant submits evidence in a form prescribed by the Board that the applicant has submitted an emergency plan to the local agency of emergency management, where such agency exists, pursuant to subsection H of § 44-146.19, and that such agency has (i) reviewed and accepted the emergency plan, (ii) responded to the request for review in writing declining to review the emergency plan, or (iii) failed to respond to a request for review within 30 days of receiving the request via certified mail.*

§ 44-146.19. Powers and duties of political subdivisions.

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation, preparedness, response and recovery. Each political subdivision shall maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency management with consent of council;

2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall appoint a coordinator of emergency management with the consent of the governing body;

3. A coordinator of emergency management shall be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;

4. In the case of the Town of Chincoteague and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall appoint a coordinator of emergency services with consent of council;

5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a director of emergency management, with the consent of the governing body, who shall appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and

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59 expenditure of public funds.

60 D. The director of each local organization for emergency management may, in collaboration with (i)
61 other public and private agencies within the Commonwealth or (ii) other states or localities within other
62 states, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a
63 disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and
64 programs and it shall be the duty of each local organization for emergency management to render
65 assistance in accordance with the provisions of such mutual aid arrangements.

66 E. Each local and interjurisdictional agency shall prepare and keep current a local or
67 interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to,
68 responsibilities of all local agencies and shall establish a chain of command, and a provision that the
69 Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be
70 contacted immediately to deploy assistance in the event of an emergency as defined in the emergency
71 response plan when there are victims as defined in § 19.2-11.01, as well as current contact information
72 for both. Every four years, each local and interjurisdictional agency shall conduct a comprehensive
73 review and revision of its emergency operations plan to ensure that the plan remains current, and the
74 revised plan shall be formally adopted by the locality's governing body. In the case of an
75 interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the
76 localities encompassed by the agency. Each political subdivision having a nuclear power station or other
77 nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency
78 Management, prepare and keep current an appropriate emergency plan for its area for response to
79 nuclear accidents at such station or facility.

80 F. All political subdivisions shall provide an annually updated emergency management assessment to
81 the State Coordinator of Emergency Management on or before July 1 of each year.

82 G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and
83 warning plan for the dissemination of adequate and timely warning to the public in the event of an
84 emergency or threatened disaster. The governing body of the locality, in consultation with its local
85 emergency management organization, shall amend its local emergency operations plan that may include
86 rules for the operation of its alert and warning system, to include sirens, Emergency Alert System
87 (EAS), NOAA Weather Radios, or other personal notification systems, amateur radio operators, or any
88 combination thereof.

89 H. Localities that have established an agency of emergency management shall ~~have authority to~~
90 ~~require the receive and review of,~~ and ~~may suggest amendments to,~~ the emergency plans of nursing
91 homes, assisted living facilities, adult day care centers, and child day care centers that are located within
92 the locality. *The local agency shall respond in writing, by certified mail, to a written request for review*
93 *of emergency plans submitted by nursing homes, assisted living facilities, adult day care centers, and*
94 *child day centers within 30 days of receiving such request. Following a review of an emergency plan*
95 *submitted pursuant to this subsection, the local agency shall (i) certify in writing that the plan does or*
96 *does not conform with applicable regulations or (ii) decline in writing to review the plan. A local*
97 *agency may charge a fee not to exceed \$150 for review of emergency plans pursuant to this subsection.*

98 § 63.2-1701. Licenses required; issuance, expiration and renewal; maximum number of residents,
99 participants or children; posting of licenses.

100 A. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day
101 care center or child welfare agency shall obtain the appropriate license from the Commissioner, which
102 may be renewed. The Commissioner, upon request, shall consult with, advise, and assist any person
103 interested in securing and maintaining any such license. Each application for a license shall be made to
104 the Commissioner, in such form as he may prescribe. It shall contain the name and address of the
105 applicant, and, if the applicant is an association, partnership, limited liability company or corporation,
106 the names and addresses of its officers and agents. The application shall also contain a description of the
107 activities proposed to be engaged in and the facilities and services to be employed, together with other
108 pertinent information as the Commissioner may require.

109 B. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses
110 may be issued for concurrent operation of more than one assisted living facility, adult day care center or
111 child welfare agency, but each license shall be issued upon a separate form. Each license and renewals
112 thereof for an assisted living facility, adult day care center or child welfare agency may be issued for
113 periods of up to three successive years, unless sooner revoked or surrendered. Licenses issued to child
114 day centers under this chapter shall have a duration of two years from date of issuance.

115 C. The length of each license or renewal thereof for an assisted living facility shall be based on the
116 judgment of the Commissioner regarding the compliance history of the facility and the extent to which it
117 meets or exceeds state licensing standards. Based on this judgment, the Commissioner may issue
118 licenses or renewals thereof for periods of six months, one year, two years, or three years.

119 D. The Commissioner may extend or shorten the duration of licensure periods for a child welfare
120 agency whenever, in his sole discretion, it is administratively necessary to redistribute the workload for

greater efficiency in staff utilization.

E. Each license shall indicate the maximum number of persons who may be cared for in the assisted living facility, adult day care center or child welfare agency for which it is issued.

F. The license and any other documents required by the Commissioner shall be posted in a conspicuous place on the licensed premises.

G. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

H. No license shall be issued or renewed for any assisted living facility, adult day care center, or child day center unless and until the applicant for licensure or renewal submits evidence in a form prescribed by the Board that the applicant has submitted an emergency plan to the local agency of emergency management, where such agency exists, pursuant to subsection H of § 44-146.19, and that such agency has (i) reviewed and accepted the emergency plan, (ii) responded to the request for review in writing declining to review the emergency plan, or (iii) failed to respond to a request for review within 30 days of receiving the request via certified mail.