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## HOUSE BILL NO. 1622

House Amendments in [ ] -January 17, 2013

A BILL to amend and reenact §§ 32.1-111.5, 63.2-1509, and 63.2-1606 of the Code of Virginia, relating to emergency medical services providers; recertification and appeals.

Patron Prior to Engrossment—Delegate Pogge

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-111.5, 63.2-1509, and 63.2-1606 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-111.5. Certification and recertification of emergency medical services providers; appeals process.

A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical ~~care attendants~~ *services providers*, including those qualifications necessary for authorization to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1. Such regulations shall include criteria for determining whether an applicant's relevant practical experience and didactic and clinical components of education and training completed during his service as a member of any branch of the armed forces of the United States may be accepted by the Commissioner as evidence of satisfaction of the requirements for certification.

B. Each person desiring certification as *an* emergency medical services ~~personnel provider~~ shall apply to the Commissioner upon a form prescribed by the Board. Upon receipt of such application, the Commissioner shall cause the applicant to be examined or otherwise determined to be qualified for certification. When determining whether an applicant is qualified for certification, the Commissioner shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant during his service as a member of any branch of the armed forces of the United States as evidence of satisfaction of the requirements for certification. If the Commissioner determines that the applicant meets the requirements for certification as *an* emergency medical services ~~personnel provider~~, he shall issue a certificate to the applicant. An emergency medical services ~~personnel provider~~ 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 Commissioner determines that the holder no longer meets the qualifications prescribed for such emergency medical services ~~personnel provider~~. The Commissioner may temporarily suspend any certificate without notice, pending a hearing or informal fact-finding conference, if the Commissioner finds that there is a substantial danger to public health or safety. When the Commissioner has temporarily suspended a certificate pending a hearing, the Commissioner shall seek an expedited hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board shall prescribe by regulation procedures and the qualifications required for the recertification of emergency medical services ~~personnel providers~~ [ ; ~~which shall include an appeals process to the Commissioner for adverse decisions~~ ]. 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 Office 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 Office of Emergency Medical Services of continuing education modules in which each module may be tested separately; and (vi) effective on January 1, 1998, a sequential option for the completion of the skills tests for recertification.

D. The Commissioner 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 ~~ninety~~ 90 days.

§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

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59 1. Any person licensed to practice medicine or any of the healing arts;  
60 2. Any hospital resident or intern, and any person employed in the nursing profession;  
61 3. Any person employed as a social worker;  
62 4. Any probation officer;  
63 5. Any teacher or other person employed in a public or private school, kindergarten or nursery  
64 school;  
65 6. Any person providing full-time or part-time child care for pay on a regularly planned basis;  
66 7. Any mental health professional;  
67 8. Any law-enforcement officer or animal control officer;  
68 9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;  
69 10. Any professional staff person, not previously enumerated, employed by a private or state-operated  
70 hospital, institution or facility to which children have been committed or where children have been  
71 placed for care and treatment;  
72 11. Any person 18 years of age or older associated with or employed by any public or private  
73 organization responsible for the care, custody or control of children;  
74 12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151  
75 et seq.) of Chapter 1 of Title 9.1;  
76 13. Any person 18 years of age or older who has received training approved by the Department of  
77 Social Services for the purposes of recognizing and reporting child abuse and neglect;  
78 14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility  
79 for public assistance;  
80 15. Any emergency medical services ~~personnel~~ *provider* certified by the Board of Health pursuant to  
81 § 32.1-111.5, unless such ~~personnel~~ *provider* immediately reports the matter directly to the attending  
82 physician at the hospital to which the child is transported, who shall make such report forthwith;  
83 16. Any athletic coach, director or other person 18 years of age or older employed by or  
84 volunteering with a private sports organization or team;  
85 17. Administrators or employees 18 years of age or older of public or private day camps, youth  
86 centers and youth recreation programs; and  
87 18. Any person employed by a public or private institution of higher education other than an attorney  
88 who is employed by a public or private institution of higher education as it relates to information gained  
89 in the course of providing legal representation to a client.  
90 This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited  
91 practitioner of any religious organization or denomination usually referred to as a church as it relates to  
92 (i) information required by the doctrine of the religious organization or denomination to be kept in a  
93 confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as  
94 evidence in court.  
95 If neither the locality in which the child resides nor where the abuse or neglect is believed to have  
96 occurred is known, then such report shall be made to the local department of the county or city where  
97 the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.  
98 If an employee of the local department is suspected of abusing or neglecting a child, the report shall  
99 be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of  
100 such a report by the court, the judge shall assign the report to a local department that is not the  
101 employer of the suspected employee for investigation or family assessment. The judge may consult with  
102 the Department in selecting a local department to respond to the report or the complaint.  
103 If the information is received by a teacher, staff member, resident, intern or nurse in the course of  
104 professional services in a hospital, school or similar institution, such person may, in place of said report,  
105 immediately notify the person in charge of the institution or department, or his designee, who shall  
106 make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in  
107 charge of the institution or department, or his designee, pursuant to this subsection, such person shall  
108 notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of  
109 suspected child abuse or neglect is made to the local department or to the Department's toll-free child  
110 abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any  
111 communication resulting from the report, including any information about any actions taken regarding  
112 the report, to the person who made the initial report.  
113 The initial report may be an oral report but such report shall be reduced to writing by the child  
114 abuse coordinator of the local department on a form prescribed by the Board. Any person required to  
115 make the report pursuant to this subsection shall disclose all information that is the basis for his  
116 suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective  
117 services coordinator and the local department, which is the agency of jurisdiction, any information,  
118 records, or reports that document the basis for the report. All persons required by this subsection to  
119 report suspected abuse or neglect who maintain a record of a child who is the subject of such a report  
120 shall cooperate with the investigating agency and shall make related information, records and reports

available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. 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.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis made by a health care provider at any time following a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child; or (iv) a diagnosis made by a health care provider at any time following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

**§ 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~~ *provider* certified by the Board of Health pursuant to § 32.1-111.5, unless such ~~personnel~~ *provider* immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;

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,

182 immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any  
183 person required to make the report or notification required by this subsection shall do so either orally or  
184 in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or  
185 exploitation. Upon request, any person required to make the report shall make available to the adult  
186 protective services worker and the local department investigating the reported case of adult abuse,  
187 neglect or exploitation any information, records or reports which document the basis for the report. All  
188 persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the  
189 investigating adult protective services worker of a local department and shall make information, records  
190 and reports which are relevant to the investigation available to such worker to the extent permitted by  
191 state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be  
192 further disseminated by the investigating agency nor shall they be subject to public disclosure; such  
193 reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 and,  
194 if reviewed by the Team, shall be subject to all of the Team's confidentiality requirements.

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

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

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

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

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

217 H. (Effective until July 1, 2013) Any person who fails to make a required report or notification  
218 pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure  
219 and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under  
220 subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil  
221 penalties under this section shall be determined by the Commissioner or his designee. The Board shall  
222 establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of  
223 the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

224 H. (Effective July 1, 2013) Any person who fails to make a required report or notification pursuant  
225 to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less  
226 than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall  
227 be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this  
228 section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee.  
229 The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for  
230 imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty  
231 pursuant to § 2.2-4026 of the Administrative Process Act.

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

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

242 K. All law-enforcement departments and other state and local departments, agencies, authorities and  
243 institutions shall cooperate with each adult protective services worker of a local department in the

**244** detection, investigation and prevention of adult abuse, neglect and exploitation.

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