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## HOUSE BILL NO. 2300

Offered January 11, 2017

A BILL to amend and reenact §§ 32.1-111.7, 32.1-125.1, 32.1-126, 32.1-162.4, 32.1-162.10, and 35.1-22 of the Code of Virginia, relating to Department of Health; frequency of inspections.

Patron—O'Bannon

Referred to Committee on Health, Welfare and Institutions

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

**1. That §§ 32.1-111.7, 32.1-125.1, 32.1-126, 32.1-162.4, 32.1-162.10, and 35.1-22 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-111.7. Inspections.**

Each emergency medical services agency for which a license has been issued and emergency medical services vehicle for which a permit has been issued shall be inspected as often as the Commissioner deems necessary and a record thereof shall be maintained. *However, no emergency medical services agency or vehicle shall be inspected for a second time until every other emergency medical services agency or vehicle in the Commonwealth has been inspected, unless a complaint regarding the emergency medical services agency or vehicle has been received and the Commissioner determines that it is necessary to reinspect the agency or vehicle to ensure the health and safety of the public.* Each such emergency medical services agency or emergency medical services vehicle, its medical supplies and equipment, and the records of its maintenance and operation shall be available at all reasonable times for inspection.

**§ 32.1-125.1. Inspection of hospitals by state agencies generally.**

As used in this section unless the context requires a different meaning, "hospital" means a hospital as defined in § 32.1-123 or 37.2-100.

State agencies shall make or cause to be made only such inspections of hospitals as are necessary to carry out the various obligations imposed on each agency by applicable state and federal laws and regulations. Any on-site inspection by a state agency or a division or unit thereof that substantially complies with the inspection requirements of any other state agency or any other division or unit of the inspecting agency charged with making similar inspections shall be accepted as an equivalent inspection in lieu of an on-site inspection by said agency or by a division or unit of the inspecting agency. A state agency shall coordinate its hospital inspections both internally and with those required by other state agencies so as to ensure that the requirements of this section are met. *No hospital shall be inspected for a second time until all other licensed hospitals in the Commonwealth have also been inspected, unless the Department receives a complaint regarding the hospital and the Commissioner determines that it is necessary to reinspect the hospital to protect the health and safety of the public.*

Notwithstanding any provision of law to the contrary, all hospitals licensed by the Department of Health or Department of Behavioral Health and Developmental Services that have been certified under the provisions of Title XVIII of the Social Security Act for hospital or psychiatric services or that have obtained accreditation from a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to ensure compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the Social Security Act (42 U.S.C. § 1395bb) may be subject to inspections so long as such certification or accreditation is maintained but only to the extent necessary to ensure the public health and safety.

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

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

B. The Commissioner shall cause each and every hospital, nursing home, and certified nursing facility to be inspected periodically, but not less often than biennially, in accordance with the provisions of this article and regulations of the Board. *However, no hospital, nursing home, or certified nursing facility shall be inspected for a second time until all other hospitals, nursing homes, or certified nursing facilities in the Commonwealth, respectively, have also been inspected, unless the Department receives a*

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59 *complaint regarding the hospital, nursing home, or certified nursing facility and the Commissioner*  
60 *determines that it is necessary to reinspect the hospital, nursing home, or certified nursing facility to*  
61 *protect the health and safety of the public.*

62 Unless expressly prohibited by federal statute or regulation, the findings of the Commissioner, with  
63 respect to periodic surveys of nursing facilities conducted pursuant to the Survey, Certification, and  
64 Enforcement Procedures set forth in 42 C.F.R. Part 488, shall be considered case decisions pursuant to  
65 the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to the Department's informal  
66 dispute resolution procedures, or, at the option of the Department or the nursing facility, the formal  
67 fact-finding procedures under § 2.2-4020. The Commonwealth shall be deemed the proponent for  
68 purposes of § 2.2-4020. Further, notwithstanding the provisions of clause (iii) of subsection A of  
69 § 2.2-4025, such case decisions shall also be subject to the right to court review pursuant to Article 5  
70 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

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

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

79 **§ 32.1-162.4. Inspections.**

80 The Commissioner may cause each hospice licensed under this article to be periodically inspected at  
81 reasonable times. *However, no hospice shall be inspected for a second time until all other hospices in*  
82 *the Commonwealth have also been inspected, unless the Department receives a complaint regarding the*  
83 *hospice and the Commissioner determines that it is necessary to reinspect the hospice to protect the*  
84 *health and safety of the public.*

85 Notwithstanding the foregoing or any other provision of this article, any hospice organization that has  
86 obtained accreditation as provided in subdivision 2 of § 32.1-162.2, may be subject to inspection so long  
87 as such accreditation is maintained but only to the extent necessary to ensure the public health and  
88 safety. If any such hospice fails to comply with the provisions of this article or with the regulations of  
89 the Board relating to public health and safety, the Commissioner may revoke the exemption from  
90 licensure and require such hospice to be relicensed before it can again qualify for an exemption pursuant  
91 to § 32.1-162.2.

92 **§ 32.1-162.10. Inspections; fees.**

93 State agencies shall make or cause to be made only such inspections of home care organizations as  
94 are necessary to carry out the various obligations imposed on each agency by applicable state and  
95 federal laws and regulations. *However, no home care organization shall be inspected for a second time*  
96 *until all other home care organizations in the Commonwealth have also been inspected, unless the*  
97 *Department receives a complaint regarding the home care organization and the Commissioner*  
98 *determines that it is necessary to reinspect the home care organization to protect the health and safety*  
99 *of the public.*

100 Any on-site inspection by a state agency or a division or unit thereof that substantially complies with  
101 the inspection requirements of any other state agency or any other division or unit of the inspecting  
102 agency charged with making similar inspections shall be accepted as an equivalent inspection in lieu of  
103 an on-site inspection by said agency or by a division or unit of the inspecting agency. A state agency  
104 shall coordinate its inspections of home care organizations both internally and with those required by  
105 other state agencies so as to ensure that the requirements of this section are met.

106 Notwithstanding any provision of law to the contrary, all home care organizations licensed by the  
107 Department of Health that have been certified under the provisions of Title XVIII of the Social Security  
108 Act for home care services or have obtained accreditation by any organization recognized by the Centers  
109 for Medicare and Medicaid Services for the purposes of Medicare certification may be subject to  
110 inspection so long as such accreditation or certification is maintained but only to the extent necessary to  
111 ensure the public health and safety. If any such home care organization fails to comply with the  
112 provisions of this article or with the regulations of the Board relating to public health and safety, the  
113 Commissioner is authorized to revoke the exemption from licensure and require such organization to be  
114 relicensed before it can again qualify for an exemption pursuant to § 32.1-162.8.

115 **§ 35.1-22. Periodic inspections.**

116 The Commissioner shall cause each restaurant, summer camp, and campground in the  
117 Commonwealth to be inspected at least annually, with no more than 12 months elapsing between each  
118 such inspection, in accordance with applicable provisions of this title and the regulations of the Board.  
119 *However, no restaurant, summer camp, or campground shall be inspected for a second time until all*  
120 *other restaurants, summer camps, or campgrounds in the Commonwealth, respectively, have also been*

121 *inspected, unless the Department receives a complaint regarding the restaurant, summer camp, or*  
122 *campground and the Commissioner determines that it is necessary to reinspect the restaurant, summer*  
123 *camp, or campground to protect the health and safety of the public.*

124 The Commissioner, as he deems appropriate, shall cause each hotel in the Commonwealth to be  
125 inspected in accordance with applicable provisions of this title and the regulations of the Board.  
126 *However, no hotel shall be inspected for a second time until all other hotels in the Commonwealth have*  
127 *also been inspected, unless the Department receives a complaint regarding the hotel and the*  
128 *Commissioner determines that it is necessary to reinspect the hotel to protect the health and safety of*  
129 *the public.*

130 If at any time the Commissioner finds that a hotel, restaurant, summer camp, or campground is not  
131 in compliance with applicable provisions of this title or regulations of the Board, he may revoke or  
132 suspend the license of that hotel, restaurant, summer camp, or campground.