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SENATE BILL NO. 386

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 23, 2020)

(Patron Prior to Substitute—Senator McPike)

A BILL to amend and reenact §§ 32.1-116.1 and 32.1-116.2 of the Code of Virginia, relating to emergency medical services; trauma data; confidentiality.

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-116.1 and 32.1-116.2 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-116.1. Prehospital patient care reporting procedure; trauma registry; confidentiality.

A. In order to collect data on the incidence, severity, and cause of trauma; integrate the information available from other state agencies on trauma and; improve the delivery of prehospital and hospital emergency medical services, *the quality of patient care, and access to medical services; and make other system improvements*, there is hereby established the Emergency Medical Services Patient Care Information System. The Emergency Medical Services Patient Care Information System shall include the Virginia Emergency Medical Services (EMS) Registry and the Virginia Statewide Trauma Registry.

B. All licensed emergency medical services agencies shall participate in the Virginia EMS Registry by making available to the Commissioner or his designees the minimum data set in the format prescribed by the Board or any other format which contain equivalent information and meets any technical specifications of the Board. The minimum data set shall include, but not be limited to, the type of medical emergency or nature of the call, the response time, the treatment provided and other items as prescribed by the Board.

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

The Commissioner may delegate the responsibility for collection of this data to the Office of Emergency Medical Services personnel or individuals under contract to the Office. The Advisory Board shall assist in the design, implementation, subsequent revisions and analyses of the data from the Virginia EMS Registry.

C. All licensed hospitals which render emergency medical services shall participate in the Virginia Statewide Trauma Registry by making available to the Commissioner or his designees abstracts of the records of all patients admitted to the institutions with diagnoses related to trauma. The abstracts shall be submitted in the format prescribed by the Department and shall include the minimum data set prescribed by the Board. Such abstracts shall also be provided to regional emergency medical services councils upon request, for uses limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

The Commissioner shall seek the advice and assistance of the Advisory Board and the Trauma System Oversight and Management Committee in the design, implementation, subsequent revisions and analyses of the Virginia Statewide Trauma Registry.

D. Patient and other data or information submitted to the trauma registry or transmitted to the Commissioner, the Advisory Board, any committee acting on behalf of the Advisory Board, any hospital or prehospital care provider, any regional emergency medical services council, permitted emergency medical services agency, or other group or committee for the purpose of monitoring and improving the quality of care pursuant to § 32.1-111.3, shall be privileged and shall not be disclosed or obtained by legal discovery proceedings, *unless disclosure is made in accordance with § 32.1-116.2 or a circuit court, after a hearing and for good cause shown arising from extraordinary circumstances*, orders disclosure of such data.

E. The Commissioner shall make available and share all information contained in the Virginia Statewide Trauma Registry with the Department for Aging and Rehabilitative Services so that the Department may develop and implement programs and services for persons suffering from brain injuries and spinal cord injuries.

§ 32.1-116.2. Confidential nature of information supplied; publication; liability protections.

A. The Commissioner and all other persons to whom data is submitted shall keep patient information confidential. Mechanisms for protecting patient data shall be developed and continually evaluated to ascertain their effectiveness. No publication of information, research or medical data shall be made which identifies the patients by names or addresses, *except as specified in subsection B. However, the* The Commissioner or his designees may utilize institutional data in order to improve the quality of and

60 appropriate access to emergency medical services *and to improve the health of citizens of the*
61 *Commonwealth.*

62 *B. In accordance with the State Board of Health's regulations and applicable federal law and*
63 *regulations, the Commissioner may disclose information, research, or medical data that identifies*
64 *patients by name or address if the Commissioner determines that such disclosure is necessary to develop*
65 *and implement programs that improve the quality of patient care, improve access to medical services, or*
66 *make other system improvements. The Commissioner shall only disclose such information with entities,*
67 *including but not limited to other Virginia state agencies and programs, federal agencies and programs,*
68 *the National Registry of Emergency Medical Technicians, or recognized research institutions and*
69 *organizations, that seek to improve quality of care, improve access to medical services, or make other*
70 *system improvements.*

71 ~~B.~~ C. No individual, licensed emergency medical services agency, hospital, Regional Emergency
72 Medical Services Council or organization advising the Commissioner shall be liable for any civil
73 damages resulting from any act or omission performed as required by this article unless such act or
74 omission was the result of gross negligence or willful misconduct.

75 **2. That the Board of Health shall develop and approve a policy specific to the sharing of data**
76 **from the Emergency Medical Services Patient Care Information System.**