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SENATE BILL NO. 733

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 16.1-77, 18.2-72, 18.2-76, and 32.1-127 of the Code of Virginia, relating to provision of abortion; informed consent; regulations.

Patrons—McClellan, Locke, Saslaw, Boysko, Ebbin, Favola and Spruill; Delegate: Carroll Foy

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-77, 18.2-72, 18.2-76, and 32.1-127 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees. However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any attorney fees.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and

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59 Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

60 (7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate
61 habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title
62 46.2.

63 (8) ~~Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.~~

64 (9) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners'
65 Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et
66 seq.).

67 ~~(10)~~ (9) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to
68 Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional
69 limits of the general district court. Any party that disagrees with an order by a general district court
70 granting an application to compel arbitration may appeal such decision to the circuit court pursuant to §
71 8.01-581.016.

72 For purposes of this section, the territory served by a county general district court expressly
73 authorized by statute to be established in a city includes the general district court courtroom.

74 **§ 18.2-72. When abortion lawful during first trimester of pregnancy.**

75 Notwithstanding any of the provisions of § 18.2-71, it shall be lawful for (i) any physician licensed
76 by the Board of Medicine to practice medicine and surgery, (ii) *any person licensed by the Board of*
77 *Medicine as a physician's assistant and acting within such person's scope of practice, or (iii) any person*
78 *jointly licensed by the Board of Medicine and Nursing as a nurse practitioner acting within the scope of*
79 *such person's practice* to terminate or attempt to terminate a human pregnancy or aid or assist in the
80 termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman
81 during the first trimester of pregnancy.

82 **§ 18.2-76. Informed written consent required; civil penalty.**

83 A. Before performing any abortion or inducing any miscarriage or terminating a pregnancy as
84 provided in § 18.2-72, 18.2-73, or 18.2-74, the physician shall obtain the informed written consent of the
85 pregnant woman. However, if the woman has been adjudicated incapacitated by any court of competent
86 jurisdiction or if the physician knows or has good reason to believe that such woman is incapacitated as
87 adjudicated by a court of competent jurisdiction, then only after permission is given in writing by a
88 parent, guardian, committee, or other person standing in loco parentis to the woman, may the physician
89 perform the abortion or otherwise terminate the pregnancy.

90 B. At least 24 hours before the performance of an abortion, a qualified medical professional trained
91 in sonography and working under the supervision of a physician licensed in the Commonwealth shall
92 perform fetal transabdominal ultrasound imaging on the patient undergoing the abortion for the purpose
93 of determining gestational age. If the pregnant woman lives at least 100 miles from the facility where
94 the abortion is to be performed, the fetal ultrasound imaging shall be performed at least two hours
95 before the abortion. The ultrasound image shall contain the dimensions of the fetus and accurately
96 portray the presence of external members and internal organs of the fetus, if present or viewable.
97 Determination of gestational age shall be based upon measurement of the fetus in a manner consistent
98 with standard medical practice in the community for determining gestational age. When only the
99 gestational sac is visible during ultrasound imaging, gestational age may be based upon measurement of
100 the gestational sac. If gestational age cannot be determined by a transabdominal ultrasound, then the
101 patient undergoing the abortion shall be verbally offered other ultrasound imaging to determine
102 gestational age, which she may refuse. A print of the ultrasound image shall be made to document the
103 measurements that have been taken to determine the gestational age of the fetus.

104 The provisions of this subsection shall not apply if the woman seeking an abortion is the victim of
105 rape or incest, if the incident was reported to law-enforcement authorities. Nothing herein shall preclude
106 the physician from using any ultrasound imaging that he considers to be medically appropriate pursuant
107 to the standard medical practice in the community.

108 C. The qualified medical professional performing fetal ultrasound imaging pursuant to subsection B
109 shall verbally offer the woman an opportunity to view the ultrasound image, receive a printed copy of
110 the ultrasound image and hear the fetal heart tones pursuant to standard medical practice in the
111 community, and shall obtain from the woman written certification that this opportunity was offered and
112 whether or not it was accepted and, if applicable, verification that the pregnant woman lives at least 100
113 miles from the facility where the abortion is to be performed. A printed copy of the ultrasound image
114 shall be maintained in the woman's medical record at the facility where the abortion is to be performed
115 for the longer of (i) seven years or (ii) the extent required by applicable federal or state law.

116 D. For purposes of this section:

117 "Informed written consent" means the knowing and voluntary written consent to abortion by a
118 pregnant woman of any age, without undue inducement or any element of force, fraud, deceit, duress, or
119 other form of constraint or coercion by the physician who is to perform the abortion or his agent. The
120 basic information to effect such consent, as required by this subsection, shall be provided by telephone

or in person to the woman at least 24 hours before the abortion by the physician who is to perform the abortion, by a referring physician, or by a licensed professional or practical nurse working under the direct supervision of either the physician who is to perform the abortion or the referring physician; however, the information in subdivision 5 may be provided instead by a licensed health-care professional working under the direct supervision of either the physician who is to perform the abortion or the referring physician. This basic information shall include:

1. A full, reasonable and comprehensible medical explanation of the nature, benefits, and risks of and alternatives to the proposed procedures or protocols to be followed in her particular case;

2. An instruction that the woman may withdraw her consent at any time prior to the performance of the procedure;

3. An offer for the woman to speak with the physician who is to perform the abortion so that he may answer any questions that the woman may have and provide further information concerning the procedures and protocols;

4. A statement of the probable gestational age of the fetus at the time the abortion is to be performed and that fetal ultrasound imaging shall be performed prior to the abortion to confirm the gestational age; and

5. An offer to review the printed materials described in subsection F. If the woman chooses to review such materials, they shall be provided to her in a respectful and understandable manner, without prejudice and intended to give the woman the opportunity to make an informed choice and shall be provided to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by first-class mail or, if the woman requests, by certified mail, restricted delivery. This offer for the woman to review the material shall advise her of the following: (i) the Department of Health publishes printed materials that describe the unborn child and list agencies that offer alternatives to abortion; (ii) medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the Department; (iii) the father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion; that assistance in the collection of such support is available; and that more detailed information on the availability of such assistance is contained in the printed materials published by the Department; (iv) she has the right to review the materials printed by the Department and that copies will be provided to her free of charge if she chooses to review them; and (v) a statewide list of public and private agencies and services that provide ultrasound imaging and auscultation of fetal heart tone services free of charge. Where the woman has advised that the pregnancy is the result of a rape, the information in clause (iii) may be omitted.

The information required by this subsection may be provided by telephone or in person.

E. The physician need not obtain the informed written consent of the woman when the abortion is to be performed pursuant to a medical emergency or spontaneous miscarriage. "Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

F. On or before October 1, 2001, the Department of Health shall publish, in English and in each language which is the primary language of two percent or more of the population of the Commonwealth, the following printed materials in such a way as to ensure that the information is easily comprehensible:

1. Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while the child is dependent, including, but not limited to, information on services relating to (i) adoption as a positive alternative; (ii) information relative to counseling services; benefits; financial assistance; medical care and contact persons or groups; (iii) paternity establishment and child support enforcement; (iv) child development; (v) child rearing and stress management; (vi) pediatric and maternal health care; and (vii) public and private agencies and services that provide ultrasound imaging and auscultation of fetal heart tone services free of charge. The materials shall include a comprehensive list of the names and telephone numbers of the agencies; or, at the option of the Department of Health, printed materials including a toll-free, 24-hour-a-day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer;

2. Materials designed to inform the woman of the probable anatomical and physiological characteristics of the human fetus at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the fetus's survival and pictures or drawings representing the development of the human fetus at two-week gestational increments. Such pictures or drawings shall contain the dimensions of the fetus and shall be

182 realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective,
183 nonjudgmental and designed to convey only accurate scientific information about the human fetus at the
184 various gestational ages; and

185 3. Materials containing objective information describing the methods of abortion procedures
186 commonly employed, the medical risks commonly associated with each such procedure, the possible
187 detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a
188 child to term.

189 The Department of Health shall make these materials available at each local health department and,
190 upon request, to any person or entity, in reasonable numbers and without cost to the requesting party.

191 G. Any physician who fails to comply with the provisions of this section shall be subject to a \$2,500
192 civil penalty.

193 **§ 32.1-127. Regulations.**

194 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in
195 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as
196 established and recognized by medical and health care professionals and by specialists in matters of
197 public health and safety, including health and safety standards established under provisions of Title
198 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

199 B. Such regulations:

200 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing
201 homes and certified nursing facilities to ensure the environmental protection and the life safety of its
202 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes
203 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and
204 certified nursing facilities, except those professionals licensed or certified by the Department of Health
205 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing
206 services to patients in their places of residence; and (v) policies related to infection prevention, disaster
207 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For
208 purposes of this paragraph, facilities in which five or more first trimester abortions per month are
209 performed shall be classified as a category of "hospital";

210 2. Shall provide that at least one physician who is licensed to practice medicine in this
211 Commonwealth shall be on call at all times, though not necessarily physically present on the premises,
212 at each hospital which operates or holds itself out as operating an emergency service;

213 3. May classify hospitals and nursing homes by type of specialty or service and may provide for
214 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

215 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with
216 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly
217 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization
218 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement
219 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of
220 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for
221 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in
222 Virginia certified by the Eye Bank Association of America or the American Association of Tissue
223 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least
224 one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage,
225 and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential
226 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital
227 collaborates with the designated organ procurement organization to inform the family of each potential
228 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making
229 contact with the family shall have completed a course in the methodology for approaching potential
230 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ
231 procurement organization and designed in conjunction with the tissue and eye bank community and (b)
232 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the
233 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
234 organization in educating the staff responsible for contacting the organ procurement organization's
235 personnel on donation issues, the proper review of death records to improve identification of potential
236 donors, and the proper procedures for maintaining potential donors while necessary testing and
237 placement of potential donated organs, tissues, and eyes takes place. This process shall be followed,
238 without exception, unless the family of the relevant decedent or patient has expressed opposition to
239 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition,
240 and no donor card or other relevant document, such as an advance directive, can be found;

241 5. Shall require that each hospital that provides obstetrical services establish a protocol for admission
242 or transfer of any pregnant woman who presents herself while in labor;

243 6. Shall also require that each licensed hospital develop and implement a protocol requiring written

discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is a registered sex offender, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least

equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis;

23. Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan; and

24. Shall establish an exemption, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.

367 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and
368 certified nursing facilities may operate adult day care centers.

369 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for
370 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot
371 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to
372 be contaminated with an infectious agent, those hemophiliacs who have received units of this
373 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot
374 which is known to be contaminated shall notify the recipient's attending physician and request that he
375 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail,
376 return receipt requested, each recipient who received treatment from a known contaminated lot at the
377 individual's last known address.