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HOUSE BILL NO. 1840

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact §§ 2.2-3106, 2.2-3705.4, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23.1-608, 23.1-608.1, 23.1-809, 23.1-1100, 23.1-1200, 23.1-2001, 23.1-2002, 32.1-69.3, 32.1-279, 38.2-5008, and 54.1-2961 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 20 of Title 23.1 sections numbered 23.1-2005, 23.1-2006, and 23.1-2007; and to repeal Chapter 30 (§§ 23.1-3000 through 23.1-3014) of Title 23.1 of the Code of Virginia, relating to Eastern Virginia Medical School; establishment of Eastern Virginia Health Sciences Center at Old Dominion University.*

Patrons—Knight and Williams Graves

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3106, 2.2-3705.4, 2.2-3711, 2.2-4343, 2.2-4345, 22.1-209.2, 23.1-608, 23.1-608.1, 23.1-809, 23.1-1100, 23.1-1200, 23.1-2001, 23.1-2002, 32.1-69.3, 32.1-279, 38.2-5008, and 54.1-2961 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 20 of Title 23.1 sections numbered 23.1-2005, 23.1-2006, and 23.1-2007 as follows:

§ 2.2-3106. Prohibited contracts by officers and employees of state government.

A. No officer or employee of any governmental agency of state government ~~or Eastern Virginia Medical School~~ shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government ~~or Eastern Virginia Medical School~~ shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided *that* the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;

2. The personal interest of an officer or employee of a public institution of higher education ~~or the Eastern Virginia Medical School~~ in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided *that* (i) the officer or employee and the immediate family member are engaged in teaching, research, or administrative support positions at the educational institution ~~or the Eastern Virginia Medical School~~; (ii) the governing board of the educational institution finds that it is in the best interests of the institution ~~or the Eastern Virginia Medical School~~ and the Commonwealth for such dual employment to exist; and (iii) after such finding, the governing board of the educational institution ~~or the Eastern Virginia Medical School~~ ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate, or make personnel decisions regarding the other;

3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;

4. Contracts for the sale by a governmental agency ~~or the Eastern Virginia Medical School~~ of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth ~~or the Eastern Virginia Medical School~~ and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;

6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided *that* the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of

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59 service, research, or education;

60 7. Subject to approval by the board of visitors, an employee's personal interest in a contract between
61 the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth
62 that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a
63 clinical practice within such public institution of higher education or the Eastern Virginia Medical
64 School and of which such employee is a member or employee;

65 8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract
66 for research and development or commercialization of intellectual property between a public institution
67 of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in
68 which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to
69 and approved by such public institution of higher education or the Eastern Virginia Medical School prior
70 to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement
71 pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the
72 institution has established a formal policy regarding such contracts, approved by the State Council of
73 Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such
74 contracts in conformity with any applicable federal regulations that has been approved by its board of
75 visitors for Virginia; and (iv) no later than December 31 of each year, the institution or the Eastern
76 Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each
77 open contract entered into subject to this provision, the names of the parties to each contract, the date
78 each contract was executed and its term, the subject of each contractual arrangement, the nature of the
79 conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for
80 administering each contract, the details of the institution's or the Eastern Virginia Medical School's
81 commitment or investment of resources or finances for each contract, and any other information
82 requested by the Secretary of the Commonwealth; or

83 9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract
84 between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical
85 School and a business in which the employee has a personal interest, if (i) the personal interest has been
86 disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is
87 entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter
88 annually on or before January 15; (iii) the employee does not participate in the institution's or the
89 Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern
90 Virginia Medical School finds and certifies in writing that the contract is for goods and services needed
91 for quality patient care, including related medical education or research, by the institution's medical
92 center or the Eastern Virginia Medical School, its affiliated teaching hospitals and other organizations
93 necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical
94 technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia
95 Medical School files an annual report with the Secretary of the Commonwealth disclosing each open
96 contract entered subject to this provision, the names of the parties to each contract, the date each
97 contract was executed and its term, the subject of each contractual arrangement, the nature of the
98 conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for
99 administering each contract, the details of the institution's or the Eastern Virginia Medical School's
100 commitment or investment of resources or finances for each contract, and any other information
101 requested by the Secretary of the Commonwealth.

102 D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or
103 commercialization of intellectual property or the employee's personal interest in a contract with a
104 business is subject to policies and regulations governing conflicts of interest promulgated by any agency
105 of the United States government, including the adoption of policies requiring the disclosure and
106 management of such conflicts of interests, the policies established by the Eastern Virginia Medical
107 School Health Sciences Center at Old Dominion University pursuant to such federal requirements shall
108 constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical
109 School Health Sciences Center at Old Dominion University to the Secretary of the Commonwealth by
110 January 31 of each year of evidence of their compliance with such federal policies and regulations.

111 E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of
112 the institution. If the board elects to delegate such authority, the board shall include this delegation of
113 authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the
114 board has delegated such authority, on or before December 1 of each year, the president of the relevant
115 institution shall file a report with the relevant board of visitors disclosing each open contract entered
116 into subject to this provision, the names of the parties to each contract, the date each contract was
117 executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest,
118 the institution's or the Eastern Virginia Medical School's employee responsible for administering each
119 contract, the details of the institution's or the Eastern Virginia Medical School's commitment or
120 investment of resources or finances for each contract, the details of how revenues are to be dispersed

disbursed, and any other information requested by the board of visitors.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia ~~or, the University of Virginia Medical Center or, Old Dominion University, or the Eastern Virginia Medical School Health Sciences Center at Old Dominion University,~~ as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or ~~the Eastern Virginia Medical School Health Sciences Center at Old Dominion University,~~ as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or ~~the Eastern Virginia Medical School Health Sciences Center at Old Dominion University,~~ as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School Health Sciences Center at Old Dominion University, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information;

health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided *that* the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the

negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided *that* the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of

305 persons using such facility, building or structure.

306 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
307 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
308 trustees of a trust established by one or more local public bodies to invest funds for postemployment
309 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
310 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
311 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
312 holding or disposition of a security or other ownership interest in an entity, where such security or
313 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
314 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
315 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
316 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
317 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
318 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
319 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
320 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
321 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
322 of information relating to the identity of any investment held, the amount invested or the present value
323 of such investment.

324 21. Those portions of meetings in which individual child death cases are discussed by the State Child
325 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
326 individual child death cases are discussed by a regional or local child fatality review team established
327 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
328 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
329 which individual adult death cases are discussed by the state Adult Fatality Review Team established
330 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
331 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
332 meetings in which individual death cases are discussed by overdose fatality review teams established
333 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
334 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
335 meetings in which individual death cases of persons with developmental disabilities are discussed by the
336 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

337 22. Those portions of meetings of the board of visitors of the University of Virginia or ~~the Eastern~~
338 ~~Virginia Medical School Board of Visitors Old Dominion University~~, as the case may be, and those
339 portions of meetings of any persons to whom management responsibilities for the University of Virginia
340 Medical Center or ~~the Eastern Virginia Medical School Health Sciences Center at Old Dominion~~
341 ~~University~~, as the case may be, have been delegated, in which there is discussed proprietary,
342 business-related information pertaining to the operations of the University of Virginia Medical Center or
343 ~~the Eastern Virginia Medical School Health Sciences Center at Old Dominion University~~, as the case
344 may be, including business development or marketing strategies and activities with existing or future
345 joint venturers, partners, or other parties with whom the University of Virginia Medical Center or ~~the~~
346 ~~Eastern Virginia Medical School Health Sciences Center at Old Dominion University~~, as the case may
347 be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
348 information would adversely affect the competitive position of the ~~University of Virginia Medical Center~~
349 ~~or the Eastern Virginia Medical School Health Sciences Center at Old Dominion University~~, as the case
350 may be.

351 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
352 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
353 disposition by the Authority of real property, equipment, or technology software or hardware and related
354 goods or services, where disclosure would adversely affect the bargaining position or negotiating
355 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
356 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
357 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
358 affect the competitive position of the Authority; and members of the Authority's medical and teaching
359 staffs and qualifications for appointments thereto.

360 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
361 the Department of Health Professions to the extent such discussions identify any practitioner who may
362 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

363 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
364 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
365 by or on behalf of individuals who have requested information about, applied for, or entered into
366 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)

of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of

information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant

to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 2.2-4343. Exemption from operation of chapter for certain transactions.

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided *that* the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the respective public institution of higher education pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 and Chapter 43.1 (§ 2.2-4378 et seq.).

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

551 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of
552 subsections B, C, and D of § 2.2-4303, §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333
553 through 2.2-4338, 2.2-4342, 2.2-4343.1, and 2.2-4367 through 2.2-4377, Chapter 43.1 (§ 2.2-4378 et
554 seq.), and § 58.1-1902 shall apply to all counties, cities, and school divisions and to all towns having a
555 population greater than 3,500 in the Commonwealth.

556 The method for procurement of professional services through competitive negotiation set forth in
557 §§ 2.2-4302.2, 2.2-4303.1, and 2.2-4303.2 shall also apply to all counties, cities, and school divisions,
558 and to all towns having a population greater than 3,500, where the cost of the professional service is
559 expected to exceed \$80,000 in the aggregate or for the sum of all phases of a contract or project. A
560 school board that makes purchases through its public school foundation or purchases educational
561 technology through its educational technology foundation, either as may be established pursuant to
562 § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases,
563 the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

564 13. A public body that is also a utility operator may purchase services through or participate in
565 contracts awarded by one or more utility operators that are not public bodies for utility marking services
566 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of
567 services under this subdivision may deviate from the procurement procedures set forth in this chapter
568 upon a determination made in advance by the public body and set forth in writing that competitive
569 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is
570 awarded based on competitive principles.

571 14. Procurement of any construction or planning and design services for construction by a Virginia
572 nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design
573 or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit
574 corporation or organization is obligated to conform to procurement procedures that are established by
575 federal statutes or regulations, whether those federal procedures are in conformance with the provisions
576 of this chapter.

577 15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and
578 Interpreting the Executive Mansion.

579 16. ~~The Eastern Virginia Medical School in the selection of services related to the management and~~
580 ~~investment of its endowment and other institutional funds. The selection of these services shall, however,~~
581 ~~be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).~~

582 ~~17. The Department of Corrections in the selection of pre-release and post-incarceration services and~~
583 ~~the Department of Juvenile Justice in the selection of pre-release and post-commitment services.~~

584 ~~18. 17. The University of Virginia Medical Center to the extent provided by subdivision A 3 of~~
585 ~~§ 23.1-2213.~~

586 ~~19. 18. The purchase of goods and services by a local governing body or any authority, board,~~
587 ~~department, instrumentality, institution, agency or other unit of state government when such purchases~~
588 ~~are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or~~
589 ~~by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.~~

590 ~~20. 19. The contract by community services boards or behavioral health authorities with an~~
591 ~~administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.~~

592 ~~21. [Expired].~~

593 ~~22. 20. The purchase of Virginia-grown food products for use by a public body where the annual~~
594 ~~cost of the product is not expected to exceed \$100,000, provided that the procurement is accomplished~~
595 ~~by (i) obtaining written informal solicitation of a minimum of three bidders or offerors if practicable and~~
596 ~~(ii) including a written statement regarding the basis for awarding the contract.~~

597 ~~23. 21. The Virginia Industries for the Blind when procuring components, materials, supplies, or~~
598 ~~services for use in commodities and services furnished to the federal government in connection with its~~
599 ~~operation as an AbilityOne Program-qualified nonprofit agency for the blind under the~~
600 ~~Javits-Wagner-O'Day Act, 41 U.S.C. §§ 8501-8506, provided that the procurement is accomplished using~~
601 ~~procedures that ensure that funds are used as efficiently as practicable. Such procedures shall require~~
602 ~~documentation of the basis for awarding contracts. Notwithstanding the provisions of § 2.2-1117, no~~
603 ~~public body shall be required to purchase such components, materials, supplies, services, or~~
604 ~~commodities.~~

605 ~~24. 22. The purchase of personal protective equipment for private, nongovernmental entities by the~~
606 ~~Governor pursuant to subdivision (11) of § 44-146.17 during a disaster caused by a communicable~~
607 ~~disease of public health threat for which a state of emergency has been declared. However, such~~
608 ~~purchase shall provide for competition where practicable and include a written statement regarding the~~
609 ~~basis for awarding any contract.~~

610 B. Where a procurement transaction involves the expenditure of federal assistance or contract funds,
611 the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or
612 regulations not in conformance with the provisions of this chapter, a public body may comply with such

federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

4. The Virginia Alcoholic Beverage Control Authority for the purchase of alcoholic beverages.

5. The Department for Aging and Rehabilitative Services, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided that the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing legislation, provided that these entities shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color,

674 religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or
675 disability in the procurement of goods and services.

676 13. Public bodies for insurance or electric utility services if purchased through an association of
677 which it is a member if the association was formed and is maintained for the purpose of promoting the
678 interest and welfare of and developing close relationships with similar public bodies, provided *that* such
679 association has procured the insurance or electric utility services by use of competitive principles and
680 ~~provided~~ that the public body has made a determination in advance after reasonable notice to the public
681 and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally
682 advantageous to the public. The writing shall document the basis for this determination.

683 14. Public bodies administering public assistance and social services programs as defined in
684 § 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services
685 under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime
686 Control Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such
687 programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of
688 goods or services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

689 ~~15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter~~
690 ~~471, as amended, of the Acts of Assembly of 1964.~~

691 B. No contract for the construction of any building or for an addition to or improvement of an
692 existing building by any local government or subdivision of local government for which state funds of
693 not more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by
694 appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction
695 shall be let except after competitive sealed bidding or after competitive negotiation as provided under
696 subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for
697 bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

698 **§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes**
699 **and state agencies and institutions.**

700 The Board shall prepare and supervise the implementation in regional detention homes and local
701 detention homes a program designed to educate and train the children detained in the homes. In
702 addition, the Board shall supervise those programs of evaluation, education, and training provided to
703 school-age children by the Department of Health, the Department of Behavioral Health and
704 Developmental Services, the children's teaching hospital associated with the Eastern Virginia ~~Medical~~
705 ~~School~~ *Health Sciences Center at Old Dominion University*, the Virginia Commonwealth University
706 Health System Authority, the children's teaching hospital associated with the Virginia Commonwealth
707 University Health System Authority, and the University of Virginia Hospitals pursuant to the Board's
708 standards and regulations as required by § 22.1-7.

709 The Board shall promulgate such rules and regulations as may be necessary to conform these
710 programs with the applicable federal and state laws and regulations including teacher/student ratios and
711 special education requirements for children with disabilities. The education programs in the relevant
712 detention homes and state agencies and institutions shall be approved by the Board, and the Board shall
713 prepare a budget for these educational programs that shall be solely supported by such general funds as
714 are appropriated by the General Assembly for this purpose. Teacher staffing ratios for regional or local
715 detention homes shall be based on a ratio of one teacher for every 12 beds based on the capacity of the
716 facility; however, if the previous year's average daily attendance exceeds this bed capacity, the ratio
717 shall be based on the average daily attendance at the facility as calculated by the Department from the
718 previous school year.

719 The Board shall enter into contracts with the relevant state agency or institution or detention facility
720 or the local school divisions in which the state agencies or institutions or the regional detention homes
721 and the relevant local detention homes are located for the hiring and supervision of teachers.

722 In any case in which the Board enters into a contract with the relevant state agency or institution, the
723 Department of Human Resource Management shall establish salary schedules for the teachers that are
724 competitive with those in effect for the school divisions in which the agency or institution is located.

725 **§ 23.1-608. Virginia Military Survivors and Dependents Education Program; tuition and fee**
726 **waivers.**

727 A. As used in this section, unless the context requires a different meaning:

728 "Domicile" has the same meaning as provided in § 23.1-500.

729 "Program" means the Virginia Military Survivors and Dependents Education Program.

730 "Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i)
731 of a military service member who, while serving as an active duty member in the Armed Forces of the
732 United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during
733 military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any
734 armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran
735 who served in the Armed Forces of the United States, Reserves of the Armed Forces of the United

States, or Virginia National Guard and, due to such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30. For purposes of this section, a child who is a stepchild of a deceased military service member described in this section shall receive all benefits described in this section as a child of such military service member if the military service member claimed the stepchild on his tax return or on his Defense Enrollment Eligibility Reporting System while serving on active duty.

B. The Virginia Military Survivors and Dependents Education Program is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education ~~or Eastern Virginia Medical School~~ for qualified survivors and dependents who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher education ~~or Eastern Virginia Medical School~~; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years, or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse. In any case under this subsection, the Commissioner of the Department of Veterans Services shall have the authority to consider the domicile or physical presence requirements under clause (i) (c) through the surviving spouse or under clause (iii) through the surviving student if the military service member or surviving spouse dies after having established physical presence within the Commonwealth but before such requirements can be met.

D. The Department of Veterans Services shall disseminate information about the Program to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.

E. Each public institution of higher education ~~and Eastern Virginia Medical School~~ shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.

A. As used in this section:

"Fund" means the Virginia Military Survivors and Dependents Education Fund.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance, in an amount (i) up to \$2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education ~~or Eastern Virginia Medical School~~ for the

797 use and benefit of qualified survivors and dependents, provided that the maximum amount to be
798 expended for each such survivor or dependent pursuant to this subsection shall not exceed, when
799 combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's
800 or dependent's educational expenses allowed under this subsection.

801 C. Each year, from the funds available in the Fund, the Council and each public institution of higher
802 education and ~~Eastern Virginia Medical School~~ shall determine the amount and the manner in which
803 financial assistance shall be made available to beneficiaries and shall make that information available to
804 the Commissioner of Veterans Services for distribution.

805 D. The Council shall disburse to each public institution of higher education and ~~Eastern Virginia~~
806 ~~Medical School~~ the funds appropriated or otherwise made available by the Commonwealth to support
807 the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.

808 E. The Department of Veterans Services shall disseminate information about the Fund to those
809 spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with
810 the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The
811 Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the
812 General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to
813 dissemination of information about the Fund.

814 F. Each public institution of higher education and ~~Eastern Virginia Medical School~~ shall include in
815 its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

816 **§ 23.1-809. Public institutions of higher education; establishment of campus police departments**
817 **authorized; employment of officers.**

818 A. The governing board of each public institution of higher education may establish a campus police
819 department and employ campus police officers and auxiliary police forces upon appointment as provided
820 in §§ 23.1-811 and 23.1-812. Such employment is governed by the Virginia Personnel Act (§ 2.2-2900
821 et seq.), except that the governing board of a public institution of higher education may direct that the
822 employment of the chief of the campus police department is not governed by the Virginia Personnel
823 Act.

824 B. The Virginia Commonwealth University Health System Authority and ~~Eastern Virginia Medical~~
825 ~~School~~ may employ police officers and auxiliary police forces as provided in this article and, in the case
826 of the Authority, in § 23.1-2406, except that the employment of such officers and forces is not governed
827 by the Virginia Personnel Act (§ 2.2-2900 et seq.).

828 **§ 23.1-1100. Definitions.**

829 As used in this chapter, unless the context requires a different meaning:

830 "Board" means the members of the board of visitors, board of trustees, or other governing board of
831 an institution.

832 "Bond" means any bond, note, or other evidence of indebtedness or obligation of an institution issued
833 by an institution pursuant to this chapter.

834 "Erect" includes building, constructing, reconstructing, erecting, demolishing, extending, bettering,
835 equipping, installing, modifying, and improving.

836 "Institution" means each public institution of higher education, as that term is defined in § 23.1-100;
837 ~~Eastern Virginia Medical School~~; the Institute for Advanced Learning and Research; the New College
838 Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher Education Center; the
839 Southwest Virginia Higher Education Center; the Virginia School for the Deaf and the Blind; and the
840 Wilson Workforce and Rehabilitation Center.

841 "Project" means (i) any (a) building, facility, addition, extension, or improvement of a capital nature
842 that is necessary or convenient to carry out the purposes of an institution, including administration and
843 teaching facilities, lecture and exhibition halls, libraries, dormitories, student apartments, faculty
844 dwellings, dining halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers,
845 infirmaries, field houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletics
846 facilities, garages, parking facilities, warehouses and storage buildings, and book and student supplies
847 centers, or (b) building, land, appurtenance, furnishing, or equipment necessary or desirable in
848 connection with or incidental to a project or (ii) any personal property at an institution.

849 **§ 23.1-1200. Definitions; findings.**

850 A. As used in this article, unless the context requires a different meaning:

851 "Authority" means the Virginia College Building Authority.

852 "Bond" means any bond, note, or other evidences of indebtedness or obligation of the Authority
853 pursuant to this article.

854 "Eligible institution" means public institutions of higher education, as that term is defined in
855 § 23.1-100; ~~Eastern Virginia Medical School~~; the Institute for Advanced Learning and Research; the
856 New College Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher
857 Education Center; the Southwest Virginia Higher Education Center; the Virginia School for the Deaf
858 and the Blind; and the Wilson Workforce and Rehabilitation Center.

"Equipment" means any personal property, including computer hardware and software, and any other improvements, including infrastructure improvements relating to equipment, used to support academic instruction and research at eligible institutions.

"Project" has the same meaning as set forth in § 23.1-1100.

B. Providing funds for the construction of projects at eligible institutions is or may be hindered, impeded, and delayed by the high financing costs resulting from the sale of bonds of such eligible institutions in the open market, and it is desirable that the Authority may (i) serve the purposes of eligible institutions by purchasing such bonds and financing the construction of projects at a lower cost, which facilitates such construction and (ii) issue its own revenue bonds for the purpose of paying the costs of such projects.

C. There is an urgent need to provide substantial amounts of new scientific, technical, and other equipment for academic instruction, research, and related activities at eligible institutions so that they may remain competitive in attracting high-quality faculty and obtaining research grants, and it is desirable that the Authority may finance the purchase of such equipment to provide eligible institutions with such equipment at the lowest possible cost, which facilitates the acquisition and supply of such equipment to eligible institutions and increases the purchasing power of their funds, including funds provided by tuition and fees and appropriations from the General Assembly.

§ 23.1-2001. Membership.

A. The board shall consist of 17 members appointed by the Governor, of whom at least (i) 14 shall be residents of the Commonwealth, (ii) *four shall be physicians or other medical or health professionals with administrative and clinical experience in an academic medical center*, and ~~at least~~ (iii) three shall be alumni of the University.

B. The alumni association of the University may submit to the Governor a list of at least three nominees for each vacancy on the board, whether the vacancy occurs by expiration of a term or otherwise. *The Eastern Virginia Medical School Foundation or any successor foundation may submit to the Governor a list of at least three nominees for each vacancy on the board that is required to be filled by a physician or other medical or health professional with administrative and clinical experience in an academic medical center pursuant to clause (ii) of subsection A.* The Governor may appoint a member from the *relevant* list of nominees.

§ 23.1-2002. Meetings; officers; committees.

A. The board shall meet at the University once a year and at such other times as it determines. Special meetings of the board may be called by the rector or any three members. The secretary shall provide notice of any special meeting to each member.

B. A majority of members shall constitute a quorum.

C. In every even-numbered year, the board shall elect from its membership a rector to preside at its meetings, a vice-rector to preside at its meetings in the absence of the rector, and a secretary to preside at its meetings in the absence of the rector and vice-rector. Such officers shall assume their duties on July 1 of such year.

D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector, vice-rector, and secretary.

E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the unexpired term.

F. At every regular annual meeting of the board, an executive committee for the transaction of business in the recess of the board may be appointed, consisting of at least five members. The executive committee shall consist of the officers of the board and such other members as the rector may appoint.

G. *The board shall appoint a standing committee to serve as the board of directors of the Eastern Virginia Health Sciences Center at the University. The standing committee shall consist of no more than 17 members and shall include members of the board, individuals who are not members of the board and who are appointed by the rector to serve terms of four years, and individuals who are not members of the board and who are appointed by the Eastern Virginia Medical School Foundation or any successor foundation to serve terms of four years, with a majority of members of the standing committee appointed by the Eastern Virginia Medical School Foundation or any successor foundation.*

§ 23.1-2005. Property and liabilities of Eastern Virginia Medical School.

All real estate and personal property in the name of the corporate body designated "Eastern Virginia Medical School" transferred to, known and taken as standing in the name of, and under the control of the University is the property of the Commonwealth. The University is vested with all rights, duties, contracts, and agreements and is responsible and liable for all the liabilities and obligations of Eastern Virginia Medical School.

§ 23.1-2006. Eastern Virginia Health Sciences Center at the University.

The schools and divisions previously existing as Eastern Virginia Medical School and such other academic units of the University related to the health sciences as may be identified by the board are

920 *hereby designated as the Eastern Virginia Health Sciences Center at the University.*

921 **§ 23.1-2007. Operations of Health Sciences Center.**

922 *A. The University may provide medical and health sciences education and related research through*
923 *teaching hospitals and related health care and health maintenance facilities, collectively referred to in*
924 *this section as the Eastern Virginia Health Sciences Center at the University or the Health Sciences*
925 *Center. The Eastern Virginia Health Sciences Center at the University may participate in cooperative*
926 *arrangements reflective of changes in health care delivery.*

927 *B. The University may create, own in whole or in part, or otherwise control corporations,*
928 *partnerships, insurers, or other entities whose activities promote the operations of the Health Sciences*
929 *Center and its mission, cooperate or enter into joint ventures with such entities, and enter into contracts*
930 *in connection with such joint ventures.*

931 **§ 32.1-69.3. Virginia Cord Blood Bank Initiative established.**

932 *A. There is hereby established the Virginia Cord Blood Bank Initiative (hereinafter referred to as the*
933 *Initiative) as a public resource for the treatment of patients with life-threatening diseases or debilitating*
934 *conditions, for use in advancing basic and clinical research, and, in the event of a terrorist attack, to be*
935 *used in the treatment of the injured.*

936 *The Initiative shall be established as a nonprofit legal entity to collect, screen for infectious and*
937 *genetic diseases, perform tissue typing on, cryopreserve, and store umbilical cord blood as a public*
938 *resource and shall be formed as a collaborative consortium that covers all geographical regions of*
939 *Virginia.*

940 *B. The State Health Commissioner shall develop or shall arrange for or contract with a nonprofit*
941 *entity for the development of the collaborative consortium to be known as the Initiative, which may*
942 *consist of any entity having the expertise or experience or willingness to develop the expertise or*
943 *experience necessary to participate in the Initiative.*

944 *C. In developing the consortium, the Commissioner shall ensure that all geographical areas of the*
945 *Commonwealth are included in the Initiative. To accomplish this goal, the Commissioner shall contact*
946 *Eastern Virginia Medical School Health Sciences Center at Old Dominion University and its*
947 *participating hospitals, Virginia Commonwealth University School of Medicine, Virginia Commonwealth*
948 *University Health System, the University of Virginia School of Medicine, the University of Virginia*
949 *Health System, and other entities located in Virginia, such as hospitals and hospital systems,*
950 *biotechnology companies, regional blood banks, laboratories, or other health care providers or medical*
951 *researchers, or local coalitions of health care providers that could provide coverage of the various*
952 *geographical regions of Virginia, to request their participation in the Initiative consortium and assist in*
953 *the design and implementation of the Initiative.*

954 *D. Any nonprofit entity having an arrangement or contract with the Commissioner for the*
955 *development of the Initiative and any medical school, hospital, or other health care provider choosing to*
956 *participate in the Initiative shall submit an estimate of the costs of implementing the Initiative for the*
957 *region in which it is located. The Commissioner shall assist in the development of the cost estimates,*
958 *compare and evaluate such estimates, and negotiate with the various entities to implement the Initiative.*

959 *Further, the Commissioner shall coordinate (i) appropriate contact with pregnant women to provide*
960 *information about umbilical cord blood donations; (ii) the development of procedures for obtaining*
961 *informed consent for cord blood donations; (iii) the design of the Initiative, including the period of years*
962 *for storage of the cord blood to ensure the integrity of the cells; (iv) a system for recycling the blood at*
963 *the end of the established storage period that provides for the sale or transfer of the cord blood samples*
964 *being taken out of storage to be used in basic or clinical research development at reasonable rates and*
965 *fees for cord blood products.*

966 *E. The entities joining the Initiative shall work collaboratively, each with the community resources in*
967 *its local or regional area. The Initiative participants shall align their outreach programs and activities to*
968 *all geographic areas and ethnic and racial groups of the Commonwealth, and shall conduct specific and*
969 *culturally appropriate outreach and research to identify potential donors among all ethnic and racial*
970 *groups.*

971 *F. The Commissioner shall disseminate information about the Initiative, focusing on hospitals,*
972 *birthing facilities, physicians, midwives, and nurses, and providing information through local health*
973 *departments.*

974 *Initiative consortium participants shall also be encouraged to disseminate information about the*
975 *Initiative.*

976 *In addition, the Director of the Department of Medical Assistance Services shall include information*
977 *about the Initiative in printed materials distributed by the Department to recipients of medical assistance*
978 *services and persons enrolled in the Family Access to Medical Insurance Security Plan.*

979 *G. Any woman admitted to a hospital or birthing facility for obstetrical services may be offered the*
980 *opportunity to donate umbilical cord blood to the Initiative. However, no woman shall be required to*
981 *make a cord blood donation.*

H. Any health care facility or health care provider receiving financial remuneration for the collection of umbilical cord blood shall, prior to harvesting the umbilical cord blood, disclose this information in writing to any woman postpartum or to the parent of a newborn from whom the umbilical cord blood is to be collected.

I. This section shall not be construed to require participation in the Initiative on the part of any health care facility or health care provider who objects to transfusion or transplantation of blood on the basis of bona fide religious beliefs.

J. The Initiative shall be implemented with such funds as may be appropriated or otherwise provided for its purpose. Upon implementation, the Commissioner shall initiate the development of a nonprofit entity to assume the operation and administration of the Initiative and may seek federal, state, and private grant funds for its continuation.

§ 32.1-279. Duties of Chief Medical Examiner; teaching legal medicine.

A. The Chief Medical Examiner shall carry out the provisions of this article under the direction of the Commissioner. The Chief Medical Examiner may, with the approval of the Commissioner, employ forensic pathologists to serve as Assistant Chief Medical Examiners in the central and district offices established pursuant to § 32.1-277.

B. The Chief Medical Examiner and Assistant Chief Medical Examiners shall be available to Virginia Commonwealth University, the University of Virginia, the ~~Eastern Virginia Medical School~~ *Old Dominion University*, and other institutions of higher education providing instruction in health science or law for teaching legal medicine and other subjects related to their duties.

§ 38.2-5008. Determination of claims; presumption; finding of Virginia Workers' Compensation Commission binding on participants; medical advisory panel.

A. The Commission shall determine, on the basis of the evidence presented to it, the following issues:

1. Whether the injury claimed is a birth-related neurological injury as defined in § 38.2-5001.

a. A rebuttable presumption shall arise that the injury alleged is a birth-related neurological injury where it has been demonstrated, to the satisfaction of the Virginia Workers' Compensation Commission, that the infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury, and that the infant was thereby rendered permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled.

If either party disagrees with such presumption, that party shall have the burden of proving that the injuries alleged are not birth-related neurological injuries within the meaning of the chapter.

b. A rebuttable presumption of fetal distress, an element of a birth-related injury, shall arise if the hospital fails to provide the fetal heart monitor tape to the claimant, as required by subsection E of § 38.2-5004.

2. Whether obstetrical services were delivered by a participating physician at the birth.

3. Whether the birth occurred in a participating hospital.

4. How much compensation, if any, is awardable pursuant to § 38.2-5009.

5. If the Commission determines (i) that the injury alleged is not a birth-related neurological injury as defined in § 38.2-5001, or (ii) that obstetrical services were not delivered by a participating physician at the birth and that the birth did not occur in a participating hospital, it shall dismiss the petition and cause a copy of its order of dismissal to be sent immediately to the parties by registered or certified mail.

6. All parties are bound for all purposes including any suit at law against a participating physician or participating hospital, by the finding of the Virginia Workers' Compensation Commission (or any appeal therefrom) with respect to whether such injury is a birth-related neurological injury.

B. The deans of the schools of medicine of the ~~Eastern Virginia Medical School~~ *Health Sciences Center at Old Dominion University*, University of Virginia School of Medicine, and Medical College of Virginia of Virginia Commonwealth University shall develop a plan whereby each claim filed with the Commission is reviewed by a panel of three qualified and impartial physicians drawn from the fields of obstetrics, pediatrics, pediatric neurology, neonatology, physical medicine and rehabilitation, or any other specialty particularly appropriate to the facts of a particular case. Such plan shall provide that each of the three aforementioned medical schools shall maintain a review panel of physicians to review claims, with responsibility for reviewing claims rotating among each medical school's panel on a case-by-case basis. The chair of the panel shall be determined by the school's dean. In no event shall the panel contain more than one panel member from the field of obstetrics. The Commission shall direct the Program to pay to the medical school that performed the assessment and prepared a report in conformity with this provision the sum of \$3,000 per claim reviewed.

C. The panel created pursuant to subsection B shall prepare a report that provides a detailed statement of the opinion of the panel's members regarding whether the infant's injury does or does not

satisfy each of the criteria of a birth-related neurological injury enumerated in such term's definition in § 38.2-5001. The report shall include the panel's basis for its determination of whether each such criteria was or was not satisfied. In addition, the report shall include such supporting documentation as the board of directors of the program may reasonably request. The panel shall file its report with the Commission 60 days from the date the petition was filed with the Commission. At the same time that the panel files its report with the Commission, the panel shall send copies thereof to the Program and all parties in the proceeding. At the request of the Commission, at least one member of the panel shall be available to testify at the hearing. The Commission shall consider, but shall not be bound by, the recommendation of the panel.

§ 54.1-2961. Interns and residents in hospitals.

A. Interns and residents holding temporary licenses may be employed in a legally established and licensed hospital, medical school or other organization operating an approved graduate medical education program when their practice is confined to persons who are bona fide patients within the hospital or other organization or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated with the graduate medical education program.

B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in subsection D and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program. No intern or resident holding a temporary license may be employed by any hospital or other organization operating an approved graduate medical education program unless he has completed successfully the preliminary academic education required for admission to examinations given by the Board in his particular field of practice.

C. No intern or resident holding a temporary license shall serve in any hospital or other organization operating an approved graduate medical education program in this Commonwealth for longer than the time prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict with existing law and require such reports from hospitals or other organizations in the Commonwealth as may be necessary to carry out the provisions of this section.

D. Such employment shall be a part of an internship or residency training program approved by the Accreditation Council for Graduate Medical Education or American Osteopathic Association or American Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be employed as an intern or resident by any hospital or other organization operating an approved graduate medical education program. The Board may determine the extent and scope of the duties and professional services which may be rendered by interns and residents.

E. The Board of Medicine shall adopt guidelines concerning the ethical practice of physicians practicing in emergency rooms, surgeons, and interns and residents practicing in hospitals, particularly hospital emergency rooms, or other organizations operating graduate medical education programs. These guidelines shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of Virginia Commonwealth University, the University of Virginia School of Medicine, the Eastern Virginia Medical School Health Sciences Center at Old Dominion University, the Medical Society of Virginia, and the Virginia Hospital and Health Care Association shall cooperate with the Board in the development of these guidelines.

The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from all patients or from the next of kin or legally authorized representative, to the extent practical under the circumstances in which medical care is being rendered, when the patient is incapable of making an informed decision, after such patients or other persons have been informed as to which physicians, residents, or interns will perform the surgery or other invasive procedure; (ii) except in emergencies and other unavoidable situations, the need, consistent with the informed consent, for an attending physician to be present during the surgery or other invasive procedure; (iii) policies to avoid situations, unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant hospital, medical school or other organization operating the graduate medical education program, in which a surgeon, intern or resident represents that he will perform a surgery or other invasive procedure that he then fails to perform; and (iv) policies addressing informed consent and the ethics of appropriate care of patients in emergency rooms. Such policies shall take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative to extent practical under the circumstances in which medical care is being rendered.

F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.

2. That Chapter 30 (§§ 23.1-3000 through 23.1-3014) of Title 23.1 of the Code of Virginia is repealed.

3. That the Governor's 2023 appointments to the Old Dominion University Board of Visitors shall include at least two physicians or other medical or health professionals with administrative and

1105 clinical experience in an academic medical center in accordance with the requirements set forth
1106 § 23.1-2001 of the Code of Virginia, as amended by this act. The Governor's 2024 appointments to
1107 the Old Dominion University Board of Visitors shall ensure that the composition of such board
1108 aligns with the membership requirements set forth in § 23.1-2001 of the Code of Virginia, as
1109 amended by this act.
1110 4. That notwithstanding the requirements set forth in subsection G of § 23.1-2002 of the Code of
1111 Virginia, as amended by this act, the initial board of directors of the Eastern Virginia Health
1112 Sciences Center at Old Dominion University shall be composed of the existing members of the
1113 Eastern Virginia Medical School Board of Visitors, who shall serve for the remainder of their
1114 current terms. Upon the expiration of such member terms, appointments to the board of directors
1115 of the Eastern Virginia Health Sciences Center at Old Dominion University shall be made in
1116 accordance with the requirements set forth in subsection G of § 23.1-2002 of the Code of Virginia,
1117 as amended by this act, and the bylaws of Old Dominion University.