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**SENATE BILL NO. 607**

Offered January 22, 1996

*A BILL to amend and reenact §§ 2.1-1.5, 2.1-20.1 as is currently effective and as may become effective, 2.1-51.21, 2.1-116.22, 2.1-342, 2.1-344, 9-156, 9-166.2, 11-45, 23-50.11, 23-232, 32.1-85, and 51.1-126.1 of the Code of Virginia, to amend the Code of Virginia by adding in Title 23 a chapter numbered 6.2, consisting of sections numbered 23-50.15:2 through 23-50.15:35, relating to the Medical College of Virginia Hospitals Authority.*

Patrons—Lambert, Benedetti, Bolling and Marsh; Delegates: Barlow, Cantor, Council, Cranwell, Jones, D.C., McEachin, Morgan, Nixon, O'Brien, Reid, Rhodes, Watkins and Watts

Referred to the Committee on Finance

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

**1. That §§ 2.1-1.5, 2.1-20.1 as is currently effective and as may become effective, 2.1-51.21, 2.1-116.22, 2.1-342, 2.1-344, 9-156, 9-166.2, 11-45, 23-50.11, 23-232, 32.1-85, and 51.1-126.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 23 a chapter numbered 6.2, consisting of sections numbered 23-50.15:2 through 23-50.15:35:**

§ 2.1-1.5. Entities not subject to standard nomenclature.  
(Effective until July 1, 1996) The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or enabling legislation of the entities:

(Effective July 1, 1996) The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

**Authorities**

Assistive Technology Loan Fund Authority.

*Medical College of Virginia Hospitals Authority*

Richmond Eye and Ear Hospital Authority.

Small Business Financing Authority.

State Education Assistance Authority.

Virginia Agriculture Development Authority.

Virginia College Building Authority.

Virginia Economic Development Partnership.

Virginia Education Loan Authority.

Virginia Housing Development Authority.

Virginia Innovative Technology Authority.

Virginia Port Authority.

Virginia Public Building Authority.

Virginia Public School Authority.

Virginia Resources Authority.

Virginia Student Assistance Authorities.

**Boards**

Board of Commissioners, Virginia Agriculture Development Authority.

Board of Commissioners, Virginia Port Authority.

Board of Directors, Assistive Technology Loan Fund Authority.

*Board of Directors, Medical College of Virginia Hospitals Authority.*

Board of Directors, Richmond Eye and Ear Hospital Authority.

Board of Directors, Small Business Financing Authority.

Board of Directors, Virginia Economic Development Partnership.

Board of Directors, Virginia Student Assistance Authorities.

Board of Directors, Virginia Innovative Technology Authority.

Board of Directors, Virginia Resources Authority.

Board of Regents, Gunston Hall Plantation.

Board of Regents, James Monroe Memorial Law Office and Library.

Board of Trustees, Family and Children's Trust Fund.

Board of Trustees, Frontier Culture Museum of Virginia.

Board of Trustees, Jamestown-Yorktown Foundation.

Board of Trustees, Miller School of Albemarle.

Board of Trustees, Rural Virginia Development Foundation.

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- 60 Board of Trustees, The Science Museum of Virginia.
- 61 Board of Trustees, Virginia Museum of Fine Arts.
- 62 Board of Trustees, Virginia Museum of Natural History.
- 63 Board of Trustees, Virginia Outdoor Foundation.
- 64 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund.
- 65 Board of Visitors, Christopher Newport University.
- 66 Board of Visitors, The College of William and Mary in Virginia.
- 67 Board of Visitors, George Mason University.
- 68 Board of Visitors, Gunston Hall Plantation.
- 69 Board of Visitors, James Madison University.
- 70 Board of Visitors, Longwood College.
- 71 Board of Visitors, Mary Washington College.
- 72 Board of Visitors to Mount Vernon.
- 73 Board of Visitors, Norfolk State University.
- 74 Board of Visitors, Old Dominion University.
- 75 Board of Visitors, Radford University.
- 76 Board of Visitors, University of Virginia.
- 77 Board of Visitors, Virginia Commonwealth University.
- 78 Board of Visitors, Virginia Military Institute.
- 79 Board of Visitors, Virginia Polytechnic Institute and State University.
- 80 Board of Visitors, Virginia State University.
- 81 Governing Board, Virginia College Building Authority.
- 82 Governing Board, Virginia Public School Authority.
- 83 Library Board, The Library of Virginia.
- 84 Motor Vehicle Dealer Board.
- 85 State Board for Community Colleges, Virginia Community College System.
- 86 Commissions
- 87 Alexandria Historical Restoration and Preservation Commission.
- 88 (Effective July 1, 1996) Charitable Gaming Commission
- 89 Chesapeake Bay Bridge and Tunnel Commission.
- 90 Hampton Roads Sanitation District Commission.
- 91 Districts
- 92 Chesapeake Bay Bridge and Tunnel District.
- 93 Hampton Roads Sanitation District.
- 94 Educational Institutions
- 95 Christopher Newport University.
- 96 College of William and Mary in Virginia.
- 97 Frontier Culture Museum of Virginia.
- 98 George Mason University.
- 99 James Madison University.
- 100 Jamestown-Yorktown Foundation.
- 101 Longwood College.
- 102 Mary Washington College.
- 103 Miller School of Albemarle.
- 104 Norfolk State University.
- 105 Old Dominion University.
- 106 Radford University.
- 107 The Science Museum of Virginia.
- 108 University of Virginia.
- 109 Virginia Commonwealth University.
- 110 Virginia Community College System.
- 111 Virginia Military Institute.
- 112 Virginia Museum of Fine Arts.
- 113 Virginia Polytechnic Institute and State University.
- 114 The Library of Virginia.
- 115 Virginia State University.
- 116 Foundations
- 117 Chippokes Plantation Farm Foundation.
- 118 Rural Virginia Development Foundation.
- 119 Virginia Conservation and Recreation Foundation.
- 120 Virginia Historic Preservation Foundation.
- 121 Virginia Outdoor Foundation.

Museum  
Virginia Museum of Natural History.  
Plantation  
Gunston Hall Plantation.  
System

Virginia Retirement System.

§ 2.1-20.1. (For effective date - See note) Health and related insurance for state employees.

A. 1. The Governor shall establish a plan for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of Personnel and Training shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

2. Such contribution shall be financed through appropriations provided by law.

B. 1. The plan shall include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

2. The plan shall include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance program. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund.

D. For the purposes of this section, the term "state employee" means state employee as defined in § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, and interns and residents employed by the Medical College of Virginia of Virginia Commonwealth University Hospitals and the School of Medicine and Hospital of the University of Virginia.

E. Provisions shall be made for retired employees to obtain coverage under the above plan. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Personnel and Training which utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

§ 2.1-20.1. (Delayed effective date - See notes) Health and related insurance for state employees.

A. 1. The Governor shall establish a plan for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of Personnel and Training shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

2. Such contribution shall be financed through appropriations provided by law.

B. 1. The plan shall include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to

persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

2. The plan shall include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance program. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund.

D. For the purposes of this section, the term "state employee" means state employee as defined in § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of district courts of the Commonwealth, and interns and residents employed by the Medical College of Virginia of Virginia Commonwealth University Hospitals and the School of Medicine and Hospital of the University of Virginia.

E. Provisions shall be made for retired employees to obtain coverage under the above plan. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of Personnel and Training which utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

§ 2.1-51.21. Agencies for which responsible.

The Secretary of Education shall be responsible to the Governor for the following agencies: Department of Education, State Council of Higher Education, Virginia Student Assistance Authorities, Virginia Museum of Fine Arts, The Science Museum of Virginia, Frontier Culture Museum of Virginia, The Library of Virginia, Jamestown-Yorktown Foundation, Board of Regents of Gunston Hall, the Medical College of Virginia Hospitals Authority, and the Virginia Advisory Council for Adult Education and Literacy. The Governor may, by executive order, assign any other state executive agency to the Secretary of Education, or reassign any agency listed above to another secretary.

§ 2.1-116.22. Eligibility for transitional severance benefit.

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.1-110 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivision A 2, A 4 (except those persons specified in subsection C of this section), A 7, A 15 or A 16 of § 2.1-116, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the State Lottery Department, (vii) who is employed by the Medical College of Virginia Hospitals prior to any transfer of such Hospitals to the Medical College of Virginia Hospitals Authority pursuant to Chapter 6.2 (§ 23-50.15:2 et seq.) of Title 23 and the University of Virginia Medical Center, or (viii) who is employed at a state educational institution as administrative or professional faculty (including presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, and (a) who, on or after January 1, 1995, is involuntarily separated, or is involuntarily separated on or after July 1, 1994, if at the time of involuntary separation had attained age fifty and had fifteen or more years of service, and (b) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility

therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.

A. Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within five work days after the receipt of the request by the public body which is the custodian of the requested records. Such citizen request shall designate the requested records with reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall not be necessary to invoke the provisions of this chapter and the time limits for response by the public body. The response by the public body within such five work days shall be one of the following responses:

1. The requested records shall be provided to the requesting citizen.

2. If the public body determines that an exemption applies to all of the requested records, it may refuse to release such records and provide to the requesting citizen a written explanation as to why the records are not available with the explanation making specific reference to the applicable Code sections which make the requested records exempt.

3. If the public body determines that an exemption applies to a portion of the requested records, it may delete or excise that portion of the records to which an exemption applies, but shall disclose the remainder of the requested records and provide to the requesting citizen a written explanation as to why these portions of the record are not available to the requesting citizen with the explanation making specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.

4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records. The public body may also make a reasonable charge for preparing documents produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records or documents, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from

official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

Criminal incident information relating to felony offenses shall not be excluded from the provisions of this chapter; however, where the release of criminal incident information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information.

2. (Effective until July 1, 1996) Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department or the Virginia Racing Commission.

2. (Effective July 1, 1996) Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

3. State income, business, and estate tax returns, personal property tax returns, scholastic records and personnel records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

For the purposes of this chapter such statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in subsection A of this section. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his 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. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any

political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992 nor shall this exclusion apply to agenda packets prepared and distributed to public bodies for use at a meeting.

Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of the General Assembly held by the Division of Legislative Services shall not be released by the Division without the prior consent of the member.

5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

7. 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 (iii) receipt of an honor or honorary recognition.

8. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

9. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

14. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, 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 data, records or information has not been publicly released, published, copyrighted or patented.

18. Financial statements not publicly available filed with applications for industrial development financings.

19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Economic Development, the Virginia Economic Development Partnership, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

21. Information which was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

26. Fisheries data which would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

27. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

29. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth and Family Services or any facility thereof to the extent as determined by the Director of the Department of Youth and Family Services, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

(i) Security manuals, including emergency plans that are a part thereof;

(ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;

(iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;

(iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they



specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;

(v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;

(vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;

(vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and

(viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of

552 General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et  
553 seq.) of Chapter 32 of this title, or by any county, city, or town.

554 42. Information and records collected for the designation and verification of trauma centers and other  
555 specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

556 43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

557 44. [Repealed.]

558 45. Investigative notes; correspondence and information furnished in confidence with respect to an  
559 investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided  
560 to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review  
561 Commission; or investigative notes, correspondence, documentation and information furnished and  
562 provided to or produced by or for the Department of the State Internal Auditor with respect to an  
563 investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this  
564 chapter shall prohibit disclosure of information from the records of completed investigations in a form  
565 that does not reveal the identity of complainants, persons supplying information or other individuals  
566 involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of  
567 information from the records of completed investigations shall include, but is not limited to, the agency  
568 involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and  
569 the actions taken to resolve the complaint. In the event an investigation does not lead to corrective  
570 action, the identity of the person who is the subject of the complaint may be released only with the  
571 consent of the subject person.

572 46. Data formerly required to be submitted to the Commissioner of Health relating to the  
573 establishment of new or expansion of existing clinical health services, acquisition of major medical  
574 equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

575 47. Documentation or other information which describes the design, function, operation or access  
576 control features of any security system, whether manual or automated, which is used to control access to  
577 or use of any automated data processing or telecommunications system.

578 48. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections  
579 provided to the Department of Rail and Public Transportation, provided such information is exempt  
580 under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws  
581 administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to  
582 data provided in confidence to the Interstate Commerce Commission and the Federal Railroad  
583 Administration.

584 49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and  
585 its wholly owned subsidiaries, (i) proprietary information provided by, and financial information  
586 concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition,  
587 acquisition, disposition, use, leasing, development, coventuring, or management of real estate the  
588 disclosure of which would have a substantial adverse impact on the value of such real estate or result in  
589 a competitive disadvantage to the corporation or subsidiary.

590 50. Confidential proprietary records related to inventory and sales, voluntarily provided by private  
591 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy  
592 contingency planning purposes or for developing consolidated statistical information on energy supplies.

593 51. Confidential proprietary information furnished to the Board of Medical Assistance Services or the  
594 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of  
595 Chapter 10 of Title 32.1.

596 52. Patient level data collected by the Virginia Health Services Cost Review Council and not yet  
597 processed, verified, and released, pursuant to § 9-166.7, to the Council by the nonprofit organization  
598 with which the Executive Director has contracted pursuant to § 9-166.4.

599 53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and  
600 cost projections provided by a private transportation business to the Virginia Department of  
601 Transportation and the Department of Rail and Public Transportation for the purpose of conducting  
602 transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface  
603 Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such  
604 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce  
605 Act or other laws administered by the Interstate Commerce Commission or the Federal Rail  
606 Administration with respect to data provided in confidence to the Interstate Commerce Commission and  
607 the Federal Railroad Administration. However, the exemption provided by this subdivision shall not  
608 apply to any wholly owned subsidiary of a public body.

609 54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department  
610 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the  
611 Department not release such information.

612 55. Reports, documents, memoranda or other information or materials which describe any aspect of  
613 security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination

of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

(i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

(ii) Surveillance techniques;

(iii) The installation, operation, or utilization of any alarm technology;

(iv) Engineering and architectural drawings of such government stores or warehouses;

(v) The transportation of merchandise, including routes and schedules; and

(vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

a. Number of employees present during each shift;

b. Busiest hours, with the maximum number of customers in such government store; and

c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

59. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

61. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

62. (a) *Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: the qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties; contract cost estimates prepared for confidential use and awarding of contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; customer account information; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies that affect the economic viability of the Authority, pursuant to § 23-50.15:32; and (b) data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's 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 Authority alone or in conjunction with a governmental body or a private concern, where such data, records or information have not been publicly released, published, copyrighted or patented.*

C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 3 of subsection B of this section, or to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to, any public officer, official or employee at any level of state, local or regional

government in the Commonwealth or to the compensation or benefits paid by any corporation organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their officers or employees. The provisions of this subsection, however, shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

§ 2.1-344. Executive or closed meetings.

A. Public bodies are not required to conduct executive or closed meetings. However, should a public body determine that an executive or closed meeting is desirable, such meeting shall be held 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 state institutions of higher education where such matters regarding such specific individuals might be affected by such evaluation. Any teacher shall be permitted to be present during an executive session or closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student or students and the student or students involved in the matter are present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters concerning any student or students of any state institution of higher education 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 an executive or 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 condition, acquisition or use of real property for public purpose, or of the disposition of publicly held property, or of plans for the future of a state institution of higher education which could affect the value of property owned or desirable for ownership by such institution.

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 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. The investing 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, consultants or attorneys, pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by counsel.

8. In the case of boards of visitors of state institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and 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 state institution of higher education 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 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 any legal entity 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.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

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

11. Discussion or consideration of tests or examinations or other documents excluded from this chapter pursuant to § 2.1-342 B 9.

12. 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 the member may request in writing that the committee meeting not be conducted in executive session.

13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions, and provisions of a siting agreement if the governing body in open meeting finds that an open meeting will have a detrimental 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 or executive session.

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

15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to § 2.1-342 B 3, and those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation or Department of Health Professions conducted pursuant to § 9-6.14:11 or § 9-6.14:12 during which the board deliberates to reach a decision.

16. Discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivisions 37 and 38 of subsection B of § 2.1-342.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding the placement in community diversion programs of individuals previously sentenced to state correctional facilities.

19. Those portions of meetings of the Virginia Health Services Cost Review Council in which the Council discusses filings of individual health care institutions which are confidential pursuant to subsection B of § 9-159.

20. Those portions of meetings in which the Board of Corrections 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.

21. Discussion of plans to protect public safety as it relates to terrorist activity.

22. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, discussion or consideration of (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

23. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

*24. In the case of the Medical College of Virginia Hospitals Authority, discussion or consideration of any of the following: the condition, acquisition, use or disposition of real or personal property; operational plans that could affect the value of property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies that could affect the economic viability of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluation of other employees pursuant to § 23-50.15:32.*

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in an executive or 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 which shall have its substance reasonably identified in the open meeting. Nothing in this section shall be construed to require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.1-1373 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 of this section applies. However, such business or industry must be identified as a matter of public record at least thirty days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

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 regulations for holding executive or closed sessions as are applicable to any other public body.

§ 9-156. Definitions.

As used in this chapter:

"Consumer" means any person (i) whose occupation is other than the administration of health

activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Council" means the Virginia Health Services Cost Review Council.

"Health care institution" means (i) a general hospital, ordinary hospital, outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Chapter 5, Article 1 (§ 32.1-123 et seq.) of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 or (iii) a hospital operated by the University of Virginia or ~~Virginia Commonwealth University~~ *the Medical College of Virginia Hospital Authority*. In no event shall such term be construed to include continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory, or outpatient clinic.

§ 9-166.2. Definitions.

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

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, a hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1, or a hospital operated by the University of Virginia or ~~Virginia Commonwealth University~~ *the Medical College of Virginia Hospitals Authority*.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with expertise and capacity to execute the powers and duties set forth for such entity in this chapter.

"System" means the Virginia Patient Level Data System.

§ 11-45. Exceptions to requirement for competitive procurement.

A. Any public body may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

B. Any public body may enter into contracts without competition for (i) legal services, provided that the pertinent provisions of Chapter 11 (§ 2.1-117 et seq.) of Title 2.1 remain applicable; or (ii) expert witnesses and other services associated with litigation or regulatory proceedings.

C. Any public body may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

D. An industrial development authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.1-1374 (d).

E. The Department of Alcoholic Beverage Control may procure alcoholic beverages without competitive sealed bidding or competitive negotiation.

F. Any public body administering public assistance programs as defined in § 63.1-87, the fuel assistance program, community services boards as defined in § 37.1-1, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.) may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 11-41.

G. Any public body may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. The Department of Health may enter into contracts with laboratories providing cytology and related services without competitive sealed bidding or competitive negotiation 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.

I. The Director of the Department of Medical Assistance Services may enter into contracts without competitive sealed bidding or competitive negotiation for special services provided for eligible recipients pursuant to § 32.1-325 E, 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.

J. The Virginia Code Commission may enter into contracts without competitive sealed bidding or competitive negotiation when procuring the services of a publisher, pursuant to §§ 9-77.7 and 9-77.8, to publish the Code of Virginia or the Virginia Administrative Code.

K. The Executive Director of the Virginia Health Services Cost Review Council may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the compilation, storage, analysis, and evaluation of patient level data pursuant to Article 2 (§ 9-166.1 et seq.) of Chapter 26 of Title 9, if the Executive 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. The writing shall document the basis for this determination.

*L. The Medical College of Virginia Hospitals Authority may enter into agreements or contracts without competitive sealed bidding or competitive negotiation for the activities set forth in Chapter 6.2 (§ 23-50.15:2 et seq.) of Title 23, if the Authority, through its Board of Directors, 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 contracts or agreements 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.*

§ 23-50.11. Tuition, fees and other charges; money left on deposit in hospitals by discharged patients.

The board may fix the rates charged the students of the University for tuition, fees and other necessary charges, and may fix and collect fees and charges for services rendered by or through any facilities maintained or conducted by the corporation.

The board is authorized and empowered to provide for the deposit with the treasurer or other proper officer of any hospital under its supervision, management or control, of any money which has been left on deposit in such hospital by discharged patients; after, in the exercise of reasonable diligence, the person or persons have been unable to be found; and after the lapse of three years from the date of the departure of such person or persons. All funds so received shall be deposited to the credit of the hospital division in a bank or banks, designated by the board of visitors, and shall be disbursed by the said officer, as directed by the board, for the benefit of hospitals under its control or for the benefit of the patients of such hospitals. However, the board of visitors shall have the authority to invest so much of the special fund as it may deem proper, in the United States government bonds or in other securities authorized by law for the investment of fiduciary funds; and the interest from such investments may be expended in the same manner as set forth above. Every action to recover money which has been left on deposit in such hospitals by discharged patients shall be brought within three years from the date of the patient's discharge.

## CHAPTER 6.2.

### MEDICAL COLLEGE OF VIRGINIA HOSPITALS AUTHORITY.

§ 23-50.15:2. Short title.

*This chapter shall be known and may be cited as the "Medical College of Virginia Hospitals Authority Act."*

§ 23-50.15:3. Findings and declaration of necessity.

*The General Assembly finds that:*

(a) provision of health care, including indigent care, is a vital governmental function protecting and promoting the health and welfare of the citizens of the Commonwealth;

(b) education of medical and health sciences professionals and the performance of medical and related research is essential to promote such health care;

(c) teaching hospitals and related facilities of high quality are essential both to provide high levels of health care and to promote medical and health sciences education, because such hospitals and related facilities (i) provide facilities necessary to train physicians and other health science professionals, (ii) provide medical services not generally available at other hospitals, and (iii) treat patients of the type and on the scale necessary to facilitate medical research and to attract physicians, faculty members, researchers and other persons necessary to maintain quality medical and health sciences education;

(d) the missions of the Medical College of Virginia Hospitals are (i) to serve as a general hospital and health care facility, (ii) to facilitate and support the health education, research and public service activities of the Health Sciences Schools of the Medical College of Virginia, Health Sciences Division of Virginia Commonwealth University, (iii) to provide high quality patient care and other specialized health services not widely available in the Commonwealth, (iv) to serve as the principal teaching and training hospital for undergraduate and graduate students of the Schools of the Health Sciences Division of Virginia Commonwealth University, and (v) to provide a site for faculty members of the Health

921 Sciences Division of Virginia Commonwealth University to conduct medical and biomedical research, all  
922 of which missions constitute vital governmental functions for protecting and promoting the health and  
923 welfare of the citizens of the Commonwealth;

924 (e) such hospital, health care and related facilities require specialized management and operation to  
925 remain economically viable, to earn revenues necessary for their operation, and to engage in  
926 cooperative arrangements with public and private entities and other activities, taking into account  
927 changes that have occurred or may occur in the future in the provision of health care and related  
928 services; and

929 (f) the needs of the citizens of the Commonwealth and the needs of the Health Sciences Division of  
930 Virginia Commonwealth University will best be served if the Medical College of Virginia Hospitals are  
931 transferred to and operated by an independent public authority charged with the missions of operating  
932 such Hospitals as teaching hospitals for the benefit of the Schools of the Health Sciences Division of  
933 Virginia Commonwealth University, providing high quality patient care, and providing a site for medical  
934 and biomedical research, all in close affiliation with the Health Sciences Division of Virginia  
935 Commonwealth University so that the public authority does not duplicate or compete with the  
936 undergraduate and graduate programs, research, training and teaching facilities offered at or operated  
937 by the University.

938 The exercise of the powers permitted by this chapter shall be deemed the performance of essential  
939 governmental functions and matters of public necessity for the entire Commonwealth in the provision of  
940 health care, medical and health sciences education and research, for which public moneys may be  
941 borrowed, loaned, spent or otherwise utilized and for which private property may be utilized or  
942 acquired.

943 § 23-50.15:4. Authority created; purposes.

944 A. There is hereby created as a public body corporate and as a political subdivision of the  
945 Commonwealth, the Medical College of Virginia Hospitals Authority, referred to in this chapter as the  
946 Authority, with such public and corporate powers as are set forth in this chapter. The Authority is  
947 hereby constituted a public instrumentality, exercising public and essential governmental functions with  
948 the power and purpose to provide for the health, welfare, convenience, knowledge, benefit and  
949 prosperity of the residents of the Commonwealth and such other persons who might be served by the  
950 Authority by delivering and supporting the delivery of medical care and related services to such  
951 residents and persons, by providing educational opportunities in the medical field and related  
952 disciplines, by conducting and facilitating research in the medical field and related disciplines, and by  
953 enhancing the delivery of health care and related services to the Commonwealth's indigent population.

954 B. The Authority is authorized to provide, promote, support and sponsor education, public knowledge  
955 and scientific research in medicine, public health and related fields; to administer programs to assist in  
956 the delivery of medical and related services to the citizens of the Commonwealth and others; and to  
957 participate in and administer federal, state and local programs affecting, supporting or carrying out any  
958 of its purposes. The Authority is further authorized to exercise independently the powers conferred by  
959 this chapter in furtherance of its corporate and public purposes, and the Authority is directed to  
960 undertake the operation of teaching hospitals and related facilities and to maintain and, as appropriate,  
961 to expand the same, all for the benefit of the Commonwealth, its citizens and such other persons who  
962 might be served by the Authority.

963 § 23-50.15:5. Definitions.

964 As used in this chapter, the following terms have the following meanings, unless the context requires  
965 otherwise:

966 "Authority" means the Medical College of Virginia Hospitals Authority.

967 "Board" means the Board of Directors of the Authority.

968 "Bonds" means bonds, notes, revenue certificates, lease participation certificates or other evidences  
969 of indebtedness or deferred purchase financing arrangements.

970 "Costs" means costs of construction, reconstruction, renovation, site work and acquisition of lands,  
971 structures, rights-of-way, franchises, easements and other property rights and interests; costs of  
972 demolition, removal or relocation of buildings or structures; costs of labor, materials, machinery and all  
973 other kinds of equipment; financing charges; costs of engineering and inspections; costs of financial,  
974 legal and accounting services; costs of plans, specifications, studies, surveys; estimates of costs and of  
975 revenues; feasibility studies and administrative expenses, including administrative expenses during the  
976 start-up of any project; costs of issuance of bonds, including printing, engraving, advertising, legal and  
977 other similar expenses; credit enhancement and liquidity facility fees; fees for interest rate caps, collars,  
978 swaps or other financial derivative products; interest on bonds in connection with a project prior to and  
979 during construction or acquisition thereof and for a period not exceeding one year thereafter; provisions  
980 for working capital to be used in connection with any project; redemption premiums, obligations  
981 purchased to provide for the payment of bonds being refunded and other costs necessary or incident to  
982 refunding of bonds; operating and maintenance reserve funds, debt reserve funds and other reserves for



the payment of principal and interest on bonds; and all other expenses necessary, desirable or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition or financing of projects or other facilities or equipment appropriate for carrying out of the purposes of this chapter and the placing of the same in operation; or the refunding of bonds.

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways and other related and supporting facilities, now or hereafter owned, leased, operated or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, Medical College of Virginia Hospitals in the normal course of its operations as a teaching, research and medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of the Medical College of Virginia Hospitals as a medical treatment facility or arising out of the financing or refinancing of hospital facilities, and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Option Date" means the date on which the Authority shall issue a written notice to all persons whose employment with the Medical College of Virginia Hospitals will be transferred from state employment to employment by the Authority pursuant to § 23-50.15:22.

"Project" means any health care, research or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether or not owned by the Authority, including, without limitation, hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; out-patient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly, the handicapped, or the chronically ill; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm persons or the prevention of disease or maintenance of health; colleges, schools or divisions offering undergraduate or graduate programs for the health professions and sciences and such other branches of learning as may be appropriate, together with research, training, and teaching facilities; all related and supporting facilities and equipment necessary or desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; power plants and equipment; storage space; mobile medical facilities; vehicles; air transport equipment and other equipment necessary or desirable for the transportation of medical equipment, medical personnel or patients; and all lands, buildings, improvements, approaches and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the Board of Visitors of Virginia Commonwealth University and the Authority for transfer of employees from state employment to employment by the Authority and for transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

§ 23-50.15:6. Board of Directors; appointment; offices; employees.

A. The Authority shall be governed by a Board of Directors consisting of sixteen members as follows: five members to be appointed by the Governor; two members to be appointed by the House of Delegates; two members to be appointed by the Senate of Virginia; five members of the Board of Visitors of Virginia Commonwealth University, to be appointed by the Rector; and the President of Virginia Commonwealth University and the Dean of the Virginia Commonwealth University School of Medicine, who shall serve as ex officio voting members during their respective terms of office.

Of the appointments to be made on and after July 1, 1996, two gubernatorial appointees shall be appointed for three-year terms, two for two-year terms, and one for a one-year term; one appointee each by the House of Delegates and the Senate shall be appointed for three-year terms, and one each for two-year terms; and one Board of Visitors member shall be appointed for a three-year term, two for two-year terms, and two for one-year terms. Thereafter, all appointments shall be for terms of three years each, except appointments to fill unexpired vacancies which shall be made for the remainder of the unexpired terms.

No person shall be eligible to serve more than two consecutive three-year terms as an appointed member, but after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, or after one year following the expiration of a second full three-year term, two additional three-year terms may be served by a member if so appointed. The terms of members serving by virtue of their office shall expire upon termination of such office. All

1044 *members shall continue to hold office until their successors have been appointed and have qualified.*

1045 *All appointed members, other than those who are members of the Board of Visitors, shall have*  
1046 *demonstrated experience or expertise in business, health-care management or legal affairs. Immediately*  
1047 *after their appointments, members shall enter upon the performance of their duties. The Board members*  
1048 *appointed from the Board of Visitors and the ex officio members shall not vote on matters that would*  
1049 *require them to breach their fiduciary duties to the University or to the Authority.*

1050 *B. All appointments, including the initial appointments to the Board and appointments to fill*  
1051 *vacancies, are subject to confirmation by the affirmative vote of a majority of those voting in each*  
1052 *house of the General Assembly if in session when such appointments are made and, if not in session, at*  
1053 *its first regular session subsequent to such appointment. Any member whose nomination is subject to*  
1054 *confirmation during a regular session of the General Assembly shall be deemed terminated when the*  
1055 *General Assembly rejects the nomination by vote of a majority of those voting in at least one house. No*  
1056 *such termination shall affect the validity of any action taken by such member prior to such termination.*

1057 *C. A Board member may be removed for malfeasance, misfeasance, incompetence or gross neglect of*  
1058 *duty by the individual or entity that appointed him or, if such appointing individual no longer holds the*  
1059 *office creating the right of appointment, by the current holder of that office.*

1060 *D. The Board shall elect annually one of their number as chairman and another as vice-chairman.*  
1061 *The Board shall also elect a secretary and treasurer and such assistant secretaries and assistant*  
1062 *treasurers as the Board may authorize for terms determined by the Board, each of whom may or may*  
1063 *not be a member of the Board. The same person may serve as both secretary and treasurer. The Board*  
1064 *may also appoint an executive committee and other standing or special committees and prescribe their*  
1065 *duties and powers, and any executive committee may exercise all such powers and duties of the Board*  
1066 *under this chapter as the Board may delegate.*

1067 *E. The Board may provide for the appointment, employment and removal of officers, employees and*  
1068 *agents of the Authority, including engineers, consultants, lawyers and accountants, upon such*  
1069 *compensation and other terms as the Board deems appropriate.*

1070 *F. The Board shall meet at least four times each year and may hold such special meetings as it*  
1071 *deems appropriate. The Board may adopt, amend and repeal such rules, regulations, procedures and*  
1072 *bylaws, not contrary to law or inconsistent with this chapter, as it deems expedient for its own*  
1073 *governance and for the governance and management of the Authority. A majority of the Board shall*  
1074 *constitute a quorum for meetings, and the Board may act by a majority of those present at any meeting.*

1075 *G. Board members shall not be entitled to compensation, but shall be entitled to reimbursement for*  
1076 *necessary and reasonable travel and other expenses incurred while engaged in the performance of their*  
1077 *duties.*

1078 *§ 23-50.15:7. Powers generally.*

1079 *The Authority shall have all the powers necessary or convenient to carry out the purposes and*  
1080 *provisions of this chapter, including, without limitation, the following powers:*

1081 *1. To sue and be sued in its own name.*

1082 *2. To have and alter an official seal.*

1083 *3. To have perpetual duration and succession in its name.*

1084 *4. To locate and maintain offices at such places as it may designate.*

1085 *5. To make and execute contracts, guarantees or any other instruments and agreements necessary or*  
1086 *convenient for the exercise of its powers and functions including, without limitation, to make and*  
1087 *execute contracts with hospitals or health-care businesses to operate and manage any or all of the*  
1088 *hospital facilities or operations, and to incur liabilities and secure the obligations of any entity or*  
1089 *individual.*

1090 *6. To conduct or engage in any lawful business, activity, effort or project consistent with the*  
1091 *Authority's purposes or necessary or convenient to exercise its powers.*

1092 *7. To exercise, in addition to its other powers, all powers that are granted to corporations by the*  
1093 *provisions of Title 13.1 (§ 13.1-1 et seq.) or similar provisions of any successor law, except in those*  
1094 *cases where, by the express terms of the provisions thereof, the power is confined to corporations*  
1095 *created under such title, and that are not inconsistent with the purposes and intent of this chapter or the*  
1096 *limitations included in this chapter.*

1097 *8. To accept, hold and enjoy any gift, devise or bequest to the Authority or its predecessors, the*  
1098 *same to be held for the uses and purposes designated by the donor, if any, or if not so designated, for*  
1099 *the general purposes of the Authority, whether given directly or indirectly; and to accept, execute and*  
1100 *administer any trust or endowment fund in which it has or may have an interest under the terms of the*  
1101 *instrument creating the trust or endowment fund.*

1102 *9. To borrow money and issue bonds as provided in this chapter and to purchase such bonds.*

1103 *10. To seek financing from, incur or assume indebtedness to and enter into contractual commitments*  
1104 *with, the Virginia Public Building Authority, the Virginia College Building Authority and the*  
1105 *Commonwealth of Virginia relating to the hospital facilities or any project.*

11. To procure such insurance, participate in such insurance plans and/or provide such self-insurance as it deems necessary or convenient to carry out the purposes and provisions of the chapter. The purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled.

§ 23-50.15:8. Audit.

The Authority shall retain an independent certified public accountant to prepare an annual audit within three months after each fiscal year and in accordance with generally accepted accounting principles and any applicable provisions of law. The Authority shall have such fiscal year as its Board shall determine. Copies of the annual audit shall be distributed to the Governor and to the chairs of the House Committee on Appropriations and the Senate Committee on Finance.

§ 23-50.15:9. Operation of projects.

A. The Authority may acquire; plan; design; construct; own; rent as landlord or tenant; operate; control; remove; renovate; enlarge; equip and maintain, directly or through stock or nonstock corporations or other entities, any project as defined in this chapter. Such projects may be owned or operated by the Authority or other parties, or jointly by the Authority and other parties, and may be operated within or without the Commonwealth, so long as their operation is necessary or desirable to assist the Authority in carrying out its public purposes within the Commonwealth, and so long as any private benefit resulting to any such other private parties from any such project is merely incidental to the public benefit of such project.

B. In the operation of hospitals and other health-care and related facilities, the Authority may make and enforce all rules and regulations necessary or desirable for such operation, including those relating to the conditions under which the privilege of practicing may be available therein, the admission and treatment of patients, procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such rules and regulations shall not discriminate on the basis of race, religion, sex or national origin.

§ 23-50.15:10. Police power; penalties.

A. The Authority is empowered to adopt and enforce reasonable rules and regulations governing access to, conduct in or on, and use of its property and facilities and surrounding streets, sidewalks and other public areas, and governing other matters affecting the safety and security of Authority property and of those using or occupying Authority property. Such rules and regulations shall have the force and effect of law (i) after publication one time in full in a newspaper of general circulation in the city or county where the affected property is located, and (ii) when posted where the public using such property may conveniently see them. Violation of any such rule or regulation shall be punishable as a Class 1 misdemeanor.

B. The campus police department of Virginia Commonwealth University, established in accordance with the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, may enforce on Authority property the laws of the Commonwealth and rules and regulations adopted pursuant to subsection A of this section. To the extent that such police services are not provided by the University, the Authority is authorized to establish a police department in accordance with the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, except that the employment of such personnel by the Authority shall not be subject to the Virginia Personnel Act (§ 2.1-110 et seq.).

§ 23-50.15:11. Acquisition and disposition of property; acceptance of grants and loans.

A. Except as to those hospital facilities or any parts thereof that are leased to the Authority by the University, the control and disposition of which shall be determined by such lease instruments, the Authority:

1. may own, hold, improve, use and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate or interest therein, acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law or other means on such terms and conditions and in such manner as it may deem proper; and

2. may sell, assign, lease, encumber, mortgage or otherwise dispose of any project or any other real or personal property, tangible or intangible, or any right, easement, estate or interest therein, or any deed of trust or mortgage lien interest owned by it, under its control or custody or in its possession. The Authority may release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it.

B. The Authority may accept loans, grants, contributions or other assistance from the federal government, the Commonwealth, or any town, city and county or other political subdivision thereof, or from any other public or private source to carry out any of the purposes of this chapter. The Authority may enter into any agreement or contract regarding or relating to the acceptance, use or repayment of any such loan, grant, contribution or assistance and may enter into such other agreements with any such entity in furtherance of the purposes of this chapter.

1167 *Counties, cities and towns are hereby authorized to lend or donate money or other property to the*  
1168 *Authority for any of its purposes. The local government making the grant or loan may restrict the use of*  
1169 *such grants or loans to a specific project, within or without that locality.*

1170 *C. Except as provided in subsection L of § 11-45, the provisions of the Virginia Public Procurement*  
1171 *Act (§ 11-35 et seq.) shall not apply to the activities of the Authority under this section.*

1172 *§ 23-50.15:12. Eminent domain.*

1173 *The Authority may exercise the power of eminent domain pursuant to the provisions of Title 25*  
1174 *(§ 25-46.1 et seq.) to acquire by eminent domain any real property, including fixtures and*  
1175 *improvements, which it may deem necessary to carry out the purposes of this chapter, upon its adoption*  
1176 *of a resolution declaring that the acquisition of such property is in the public interest and necessary for*  
1177 *public use. The Authority may acquire property already devoted to a public use, provided that no*  
1178 *property belonging to any city, town or county or to any government or to any religious or charitable*  
1179 *corporation may be acquired without its consent.*

1180 *§ 23-50.15:13. Fees, rentals and other charges.*

1181 *The Authority may fix, revise from time to time, charge and collect rates, rentals, fees and other*  
1182 *charges for the services or facilities furnished by or on behalf of the Authority, and establish regulations*  
1183 *regarding any such service rendered or the use, occupancy or operation of any such facility. Such*  
1184 *charges and regulations shall not be subject to supervision or regulation by any commission, board,*  
1185 *bureau, or agency of the Commonwealth except as otherwise provided by law for the providers of health*  
1186 *care.*

1187 *§ 23-50.15:14. Creation of entities; participation in joint ventures; provision of assistance by*  
1188 *authority; investments.*

1189 *A. Consistent with § 23-50.15:15, the Authority may create or assist in the creation of; may own in*  
1190 *whole or in part or otherwise control; may participate in or with any entities, public or private; and*  
1191 *may purchase; receive; subscribe for; own; hold; vote; use; employ; sell; mortgage; lend; pledge; or*  
1192 *otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities*  
1193 *organized for any purpose within or without the Commonwealth, and (ii) obligations of any person or*  
1194 *corporation.*

1195 *B. The Authority may participate in joint ventures with individuals, corporations, governmental*  
1196 *bodies or agencies, partnerships, associations, insurers or other entities to facilitate any activities or*  
1197 *programs consistent with the public purposes and intent of this chapter.*

1198 *C. The Authority may create a non-profit entity or entities for the purpose of soliciting, accepting*  
1199 *and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and*  
1200 *bequests in trust, which entity or entities shall not engage in trust business; provided, however, that the*  
1201 *Authority shall not be empowered to create a non-profit entity or entities that would in any way*  
1202 *duplicate such activities by the University or its related foundations.*

1203 *D. In carrying out any activities authorized by this chapter, the Authority may provide appropriate*  
1204 *assistance, including making loans and providing time of employees, to corporations, partnerships,*  
1205 *associations, joint ventures or other entities, whether or not such corporations, partnerships,*  
1206 *associations, joint ventures or other entities are owned or controlled in whole or in part, directly or*  
1207 *indirectly, by the Authority.*

1208 *E. Notwithstanding any provision of law to the contrary, the Authority may invest its operating funds*  
1209 *in any obligations or securities that are considered legal investments for public funds in accordance*  
1210 *with Chapter 18 (§ 2.1-327 et seq.) of Title 2.1. The Board shall adopt written investment guidelines and*  
1211 *shall retain an independent investment advisory firm or consultant to review a minimum of every five*  
1212 *years the suitability of the Authority's investments and their consistency with the investment guidelines.*

1213 *§ 23-50.15:15. Public purpose.*

1214 *The exercise of the powers granted by this chapter shall be in all respects for the benefit of the*  
1215 *inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, knowledge,*  
1216 *convenience and prosperity. No part of the assets or net earnings of the Authority shall inure to the*  
1217 *benefit of, or be distributable to, any private individual, except that reasonable compensation may be*  
1218 *paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits*  
1219 *may be conferred that are in conformity with said purposes, and no private individual shall be entitled*  
1220 *to share in the distribution of any of the corporate assets on dissolution of the Authority.*

1221 *§ 23-50.15:16. Exemption from taxation.*

1222 *As set forth in § 23-50.15:4, the Authority will be performing an essential governmental function in*  
1223 *the exercise of the powers conferred upon it by this chapter. Accordingly, the Authority shall not be*  
1224 *required to pay any taxes or assessments upon any project or any property or upon any operations of*  
1225 *the Authority or the income therefrom, or any taxes or assessments upon any project or any property or*  
1226 *local obligation acquired or used by the Authority under the provisions of this chapter or upon the*  
1227 *income therefrom. Any bonds issued by the Authority under the provisions of this chapter, the transfer*  
1228 *thereof and the income therefrom, including any profit on the sale thereof, shall at all times be free*

from taxation and assessment of every kind by the Commonwealth and by the local governments and other political subdivisions of the Commonwealth.

§ 23-50.15:17. Assistance by the University; transfer of existing facilities.

A. The University is hereby authorized to lease, convey or otherwise transfer to the Authority any or all assets and liabilities appearing on the balance sheet of the Medical College of Virginia Hospitals and any or all of the hospital facilities, except real estate which may be leased to the Authority for a term not to exceed ninety-nine years, upon such terms as may be approved by the University.

B. Any transfer of hospital facilities shall be conditioned upon the following:

1. The existence of a binding agreement between the University and the Authority that requires the Authority to assume, directly or indirectly, those hospital obligations directly related to the hospital facilities, or any parts thereof, that are transferred, which in the case of a lease of hospital facilities may take the form of rental, as provided in subsection C of this section, or a combination of assumption and such rental;

2. The existence of a binding agreement between the University and the Authority that provides that, effective on the transfer date and thereafter, the Authority shall assume responsibility for and shall defend, indemnify and hold harmless the University and its officers and directors with respect to:

(a) All liabilities and duties of the University pursuant to contracts, agreements and leases for commodities, services and supplies used by the Medical College of Virginia Hospitals, including property leases;

(b) All claims related to the employment relationship between employees of the Authority and the University on and after the transfer date;

(c) All claims for breach of contract resulting from the Authority's action or failure to act on and after the transfer date;

(d) All claims related to the Authority's errors and omissions, including, but not limited to, medical malpractice, directors' and officers' liability, workers' compensation, automobile liability, and premises, completed operations and products liability, resulting from the Authority's action or failure to act on and after the transfer date; and

3. The existence of a binding agreement between the University and the Authority by which the Authority shall accept and agree to abide by provisions that ensure the continued support of the education, research, patient care and public service missions of the Medical College of Virginia Hospitals.

C. Any lease of hospital facilities, or any parts thereof, from the University to the Authority may include a provision that requires the Authority to pay the University a rental payment for the hospital facilities, or any parts thereof, that are leased. For those hospital facilities for which rental is paid, the rental shall be an amount that may not be less than the greater of the following:

1. An amount equal to the debt service accruing during the term of the lease on all outstanding bonds issued for the purpose of financing the acquisition, construction or improvement of the hospital facilities, or any parts thereof, on which rental is paid; or

2. A nominal amount determined by the parties to be necessary to prevent the lease from being unenforceable because of a lack of consideration.

D. Any lease of hospital facilities, or any parts thereof, shall include a provision that requires the Authority to continue to support the education, research, patient care and public service missions of the Medical College of Virginia Hospitals.

E. All other agencies and officers of the Commonwealth are authorized and directed to take such actions as may be necessary or desirable in the judgment of the University to permit such conveyance and the full use and enjoyment of the hospital facilities, including, without limitation, the transfer of property of any type held in the name of the Commonwealth or some instrumentality or agency thereof but used by the University in the operation of the hospital facilities.

F. The Authority may pay to or on behalf of the University some or all of the costs of the hospital facilities. The University may apply some or all of such proceeds to the payment or defeasance of its obligations issued to finance the hospital facilities, and the Authority may issue its bonds to finance or refinance such payment to or on behalf of the University.

G. Funds held by or for the University or any predecessor or division thereof, specifically including, without limitation, funds held by the University Foundation or the Medical College of Virginia Foundation for the benefit of the Medical College of Virginia Hospitals or any predecessor thereof, for use in operating, maintaining or constructing hospital facilities, providing medical and health sciences education or conducting medical or related research may be transferred, in whole or in part, to the Authority if the University or any foundation determines that the transfer is consistent with the intended use of the funds. The University may direct in writing that all or part of the money or property representing its beneficial interest under a will, trust agreement or other donative instrument be distributed to the Authority if the University determines that such direction will further any of the

original purposes of the will, trust agreement or other instrument. Such a direction shall not be considered a waiver, disclaimer, renunciation, assignment or disposition of the beneficial interest by the University. A fiduciary's distribution to the Authority pursuant to such a written direction from the University shall be deemed a distribution to the University for all purposes relating to the donative instrument, and the fiduciary shall have no liability for distributing any money or property to the Authority pursuant to such a direction. None of the foregoing shall deprive any court of its jurisdiction to determine whether such a distribution is appropriate, under its express powers or otherwise.

§ 23-50.15:18. Operation of hospital facilities.

The Authority may not operate any of the hospital facilities prior to execution of the lease or leases and agreement or agreements required by § 23-50.15:17, and such other agreements as may be necessary or convenient in the University's judgment to provide for the transfer of the operations of the hospital facilities to the Authority.

§ 23-50.15:19. Assignment of agreements.

The University may assign, and the Authority may accept the rights, and assume the obligations under, any contracts or other agreements of any type relating to the financing or the operating of the hospital facilities. Upon evidence that such assignment and acceptance have been made, all agencies and instrumentalities of the Commonwealth are directed to consent to such assignment and to accept the substitution of the Authority for the University as a party to such agreements to the extent that the University's obligations thereunder relate to ownership, operation or financing of the hospital facilities. Indebtedness previously incurred by the Commonwealth, the Virginia Public Building Authority, the Virginia College Building Authority and any other agencies and instrumentalities of the Commonwealth to finance the hospital facilities may continue to remain outstanding after their transfer and the assignment of the agreements relating thereto by the University to the Authority.

§ 23-50.15:20. Licenses and permits.

The transfer of the hospital facilities from the University to the Authority shall not require a certificate of public need pursuant to Article 1.1 of Chapter 4 (§ 32.1-102.1 et seq.) of Title 32. All licenses, permits, certificates of public need or other authorizations of the Commonwealth or any agency thereof or of any county, city or town held by the University in connection with the ownership or operation of the hospital facilities shall be deemed to be transferred, without further action, to the Authority as and to the extent the Authority undertakes the activity thereby permitted. All agencies and officers of the Commonwealth and all agencies and officers of counties, cities and towns are directed to confirm such transfer by the issuance of new or amended licenses, permits, certificates of public need or other authorizations upon the request of the University and the Authority.

§ 23-50.15:21. Agent for University.

If for any reason the Authority cannot replace the University as a party to any agreement in connection with the financing, ownership or operation of the hospital facilities, the Authority and the University may provide that the Authority shall act as agent for the University in carrying out its obligations under such agreement and/or in receiving the benefits thereunder.

§ 23-50.15:22. Employees of the Authority.

A. Employees of the Authority shall not be considered employees of the Commonwealth, and shall not be covered by the provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The Board of Directors of the Authority shall develop and adopt policies and procedures that will afford its employees grievance rights.

B. The Authority shall issue a written notice to all persons whose employment will be transferred from state employment to employment by the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." Each person whose employment will be transferred to employment with the Authority may, by written request made within 180 days of the Option Date, elect not to become an employee of the Authority. If the Authority has offered an employee a position for which the employee is qualified and which does not require relocation or a reduction in salary, but such employee nevertheless elects not to become an employee of the Authority, then such employee shall not be considered involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act, Chapter 10.5 (§ 2.1-116.20 et seq.) of Title 2.1. Any employee who is transferred to employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. However, employees who are not offered the opportunity to transfer from state employment to employment by the Authority shall be entitled to the benefits conferred by the Workforce Transition Act if otherwise eligible.

C. Without limiting its power generally with respect to employees, the Authority may employ any person employed by the University in the operation of the hospital facilities and may assume obligations under any employment agreement for such person and the University may assign any such contract to the Authority.

D. The Authority and the University may also enter into agreements providing for the purchase of services of employees of the University utilized in the operation of the hospital facilities by payment of such amounts as may be agreed upon to cover all or part of the salaries and other costs of such employees.

E. Notwithstanding any other provision of law to the contrary, any person whose employment is to be transferred from state employment to employment by the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 2 (§ 2.1-11.1 et seq.) of Title 2.1, may elect, within 180 days of the Option Date, to continue to be a member of such health insurance plan under the same terms and conditions as would apply if the transferred employee had remained a state employee, so long as the employee is employed with the Authority or returns to state employment. Alternatively, such employee may elect, within 180 days of the Option Date, to become a member of the health insurance plan established by the Authority for the benefit of its employees.

F. Notwithstanding any other provision of law to the contrary, any person whose employment is to be transferred from state employment to employment by the Authority as a result of this chapter and who is a member of the Virginia Retirement System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, may elect, within 180 days of the Option Date, to continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as would apply if the transferred employee had remained a state employee, so long as the employee is employed with the Authority or returns to state employment. Alternatively, such employee may elect, within 180 days of the Option Date, to become a member of the retirement program established by the Authority for the benefit of its employees. The following rules shall apply:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan, employment with the Authority shall be treated as state employment with the employer participating at the state rate in the Virginia Retirement System or other such authorized retirement plan. The Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or other such authorized retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefit of its employees will be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any non-participating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For purposes hereof, the basic benefits shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, determined based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

§ 23-50.15:23. Appropriations of Commonwealth.

Appropriations heretofore made by the General Assembly for capital improvements, health care services or other items related to or supplied at the hospital facilities may be paid to the Authority by the University or, at the request of the University, by any officer or agency of the Commonwealth pursuant to customary procedures upon evidence that the Authority will use such appropriations for the intended purposes.

§ 23-50.15:24. Power to issue bonds.

The Authority may issue bonds from time to time for any of its purposes, including financing or refinancing all or any part of its programs or general operations, costs of any project, including the hospital facilities, whether or not owned by the Authority, or to refund bonds or other obligations issued therefor by or on behalf of the Authority, the University or otherwise, including bonds or obligations not then subject to redemption, and may guarantee, assume or otherwise agree to pay, in whole or in part, indebtedness issued by the University or any other party resulting in the acquisition or construction of facilities for the benefit of the Authority or the refinancing thereof. Notwithstanding Article 2 (§ 2.1-177



1413 *et seq.*) of Chapter 14 of Title 2.1, bonds may be issued under the provisions of this chapter without  
1414 obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any  
1415 political subdivision, and without any proceedings or the happening of conditions or things other than  
1416 those proceedings, conditions or things that are specifically required by this chapter; provided, however,  
1417 that each debt offering shall be submitted to the Treasury Board which shall undertake a due diligence  
1418 review for the sole purpose of determining the offering's potential impact on the debt rating of the  
1419 Commonwealth, and the Treasury Board, after such review, shall certify the impact, if any; and  
1420 provided further that such debt may be issued by the Authority unless the Treasury Board certifies that  
1421 the issuance will adversely impact such debt rating. The Authority may issue such types of bonds as it  
1422 may determine, including, without limitation, bonds payable as to principal and interest from any one or  
1423 more of the following sources: (i) its revenues generally; (ii) income and revenues derived from the  
1424 operation, sale or lease of a particular project or projects, whether or not they are financed or  
1425 refinanced from the proceeds of such bonds; (iii) funds realized from the enforcement of security  
1426 interests or other liens or obligations securing such bonds; (iv) proceeds from the sale of bonds; (v)  
1427 payments under letters of credit, policies of municipal bond insurance, guarantees or other credit  
1428 enhancements; (vi) any reserve or sinking funds created to secure such payment; (vii) accounts  
1429 receivable of the Authority; or (viii) other available funds of the Authority.

1430 Any bonds may be additionally guaranteed by, or secured by a pledge of, any grant, contribution or  
1431 appropriation from a participating political subdivision, the University, the Commonwealth or any  
1432 political subdivision, agency or instrumentality thereof, any federal agency or any unit, private  
1433 corporation, partnership, association or individual.

1434 § 23-50.15:25. *Liability of Commonwealth, political subdivisions and members of Board of Directors.*

1435 No bonds issued by the Authority under this chapter shall constitute a debt or a pledge of the faith  
1436 and credit of the Commonwealth, or any political subdivision thereof other than the Authority, but shall  
1437 be payable solely from the revenue, money or property of the Authority as provided for in this chapter.  
1438 No member of the Board of Directors or officer, employee or agent of the Authority or any person  
1439 executing bonds of the Authority shall be liable personally on the bonds by reason of their issuance or  
1440 execution. Each bond issued under this chapter shall contain on its face a statement to the effect that (i)  
1441 neither the Commonwealth, nor any political subdivision thereof, nor the Authority shall be obligated to  
1442 pay the principal of, or interest or premium on, the bond or other costs incident to the bond except  
1443 from the revenue, money or property of the Authority pledged and that (ii) neither the faith and credit  
1444 nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the  
1445 payment of the principal of or interests or premium on the bond.

1446 § 23-50.15:26. *Liability on bonds.*

1447 Neither the Directors nor any person executing any bonds shall be liable personally on the bonds by  
1448 reason of the issuance thereof. Bonds of the Authority shall not be a debt of the Commonwealth or any  
1449 political subdivision thereof other than the Authority and shall so state on their face. Neither the  
1450 Commonwealth nor any political subdivision thereof other than the Authority shall be liable for payment  
1451 of bonds of the Authority, nor shall such bonds be payable out of any funds or properties of the  
1452 Commonwealth or any political subdivision thereof other than those of the Authority, except as  
1453 permitted by § 23-50.15:24. The bonds of the Authority shall not constitute an indebtedness within the  
1454 meaning of any debt limitation or restriction. Bonds of the Authority are declared to be issued for an  
1455 essential public and governmental purpose.

1456 § 23-50.15:27. *Form of bonds.*

1457 Bonds of the Authority shall be authorized by resolution setting forth the maximum principal amount  
1458 issuable and may be issued in one or more series, shall be dated, shall mature at such time or times not  
1459 exceeding forty years from their date and may be made redeemable or subject to tender before maturity,  
1460 at the option of the Authority, at such price or prices and under such terms and conditions as may be  
1461 fixed by the Authority or its agents prior to issuance. Bonds of the Authority shall bear interest payable  
1462 at such times and at such rates as may be determined by the Authority, or as may be determined in  
1463 such manner as the Authority or its agents may provide, including rates approved by officers of the  
1464 Authority under authorization of the Board, rates tied to indices, rates of other securities or other  
1465 standards and determinations by agents designated by the Authority under guidelines established by the  
1466 Authority.

1467 The Authority shall determine the form of its bonds and the manner of execution and shall fix the  
1468 denominations thereof and the place or places of payment of principal and interest, which may be at  
1469 any bank or trust company or securities depository within or without the Commonwealth. The bonds  
1470 may be issued in coupon or registered form, or both, and provision may be made for their registration  
1471 in whole or in part. Bonds issued in registered form may be issued under a system of book-entry for  
1472 recording the ownership and transfer of ownership of rights to receive payments thereon. If any officer  
1473 whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to  
1474 be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid



and sufficient for all purposes. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange and payment of bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine.

Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth.

Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any mutilated, destroyed, stolen or lost bonds.

§ 23-50.15:28. Trust indentures and mortgages; security for the bonds.

Any bond issued under this chapter may be issued pursuant to or secured by a trust indenture, deed of trust or mortgage of any project or projects or any other property of the Authority, whether or not financed, in whole or in part, from the proceeds of such bonds, by a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or any combination thereof. Any such trust indenture or other agreement, or the resolution providing for the issuance of bonds, may pledge or assign fees, rents and other charges to be received and may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants: (i) providing for the collection and application of revenues and the repossession and sale by the Authority, or any trustees under any trust indenture or agreement, of any project or other property upon default; (ii) setting forth duties of the Authority in relation to the acquisition, construction, maintenance, operation and insurance of any project or other property of the Authority and the amounts of fees, rents and other charges to be charged; (iii) providing for the collection of such fees, rents and other charges, and the custody, safeguarding and application of all moneys of the Authority; (iv) providing for the creation of sinking funds and the creation and maintenance of reserves; and (v) setting forth conditions or limitations with respect to the incurrence of indebtedness or the granting of mortgages or other liens. Such trust indenture, trust or other agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee or other agent for bondholders and may restrict the individual right of action by bondholders.

In addition, the Authority may grant mortgages, deeds of trust, security interests and other liens on its real and personal property, including its accounts receivable, to secure bonds. All pledges of revenues of the Authority for payment of bonds shall be valid and binding from the time when the pledge is made, and the revenues pledged and thereafter received by the Authority shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. The Authority may also provide for the recording or filing of any mortgage, deed of trust, security interest or other lien, or any financing statement or other instrument, necessary or desirable to create, perfect or evidence any lien created pursuant to this chapter.

It shall be lawful for any bank or trust company within or without the Commonwealth to serve as depository of the proceeds of bonds or of other revenues of the Authority and to furnish indemnifying bonds or to pledge such securities as may be required by the Authority.

All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the costs of a project.

§ 23-50.15:29. Remedies of obligees of Authority.

Except to the extent that the rights herein given may be restricted by such trust indenture or trust or other agreement, any holder of bonds or coupons issued under the provisions of this chapter and the trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this chapter or under such trust indenture, trust or other agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust indenture, trust or other agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collecting of fees, rents and other charges.

§ 23-50.15:30. Bonds to be legal investments.

Bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all

1536 insurance companies, trust companies, banking associations, investment companies, executors,  
1537 administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in  
1538 their control or belonging to them. Such bonds are hereby made securities that may properly and  
1539 legally be deposited with and received by any state or municipal officer or any agency or political  
1540 subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now  
1541 or may hereafter be authorized by law.

1542 § 23-50.15:31. Existing bonds.

1543 The Authority may assume, or may agree to make payments in amounts sufficient for the University  
1544 to pay, some or all of the hospital obligations incurred under resolutions previously adopted by the  
1545 University with respect to the hospital facilities and may issue bonds to refund bonds issued under such  
1546 resolutions or to refinance such payment obligations. If the Authority has assumed all hospital  
1547 obligations under any such bond resolution and commenced its operation of substantially all of the  
1548 hospital facilities financed or refinanced thereby, the University, the State Treasurer, the Virginia Public  
1549 Building Authority and the Virginia College Building Authority shall take such steps as are appropriate  
1550 to provide for the substitution of the Authority for the University under such resolution and to transfer  
1551 to the Authority any funds payable to the University under the terms of such resolution.

1552 § 23-50.15:32. Confidential and public information.

1553 A. The Authority shall be subject to the provisions of the Freedom of Information Act (§ 2.1-340 et  
1554 seq.), which shall include the following exceptions:

1555 1. Pursuant to subdivision 24 of subsection A of § 2.1-344, the Authority may conduct closed or  
1556 executive meetings to discuss or consider any of the following: the condition, acquisition, use or  
1557 disposition of real or personal property; operational plans that could affect the value of property, real  
1558 or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and  
1559 fund-raising activities; grants and contracts for services or work to be performed by the Authority;  
1560 marketing or operational strategies that could affect the economic viability of the Authority; members of  
1561 its medical and teaching staffs and qualifications for appointments thereto; and qualifications or  
1562 evaluation of other employees. The Authority shall follow the provisions of § 2.1-344.1 when convening  
1563 executive or closed meetings.

1564 2. Pursuant to subdivision 62 of subsection B of § 2.1-342, the Authority shall not be required to  
1565 disclose records pertaining to any of the following: the qualifications for or continued membership on  
1566 its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority  
1567 from third parties; contract cost estimates prepared for confidential use and awarding contracts for  
1568 construction or the purchase of goods or services; data, records or information of a proprietary nature  
1569 produced or collected by or for the Authority or members of its medical or teaching staffs; financial  
1570 statements not publicly available that may be filed with the Authority from third parties; customer  
1571 account information; consulting or other reports paid for by the Authority to assist the Authority in  
1572 connection with its strategic planning and goals; and the determination of marketing and operational  
1573 strategies that affect the economic viability of the Authority. In addition, the Authority shall not be  
1574 required to disclose data, records or information of a proprietary nature produced or collected by or  
1575 for employees of the Authority, other than the Authority's financial or administrative records, in the  
1576 conduct of or as a result of study or research on medical, scientific, technical or scholarly issues,  
1577 whether sponsored by the Authority alone or in conjunction with a governmental body or a private  
1578 concern, where such data, records or information has not been publicly released, published, copyrighted  
1579 or patented.

1580 B. For purposes of the Freedom of Information Act (§ 2.1-340 et seq.), meetings of the Board shall  
1581 not be considered meetings of the Board of Visitors of the University. Meetings of the Board may be  
1582 conducted through telephonic or video means as provided in § 2.1-343.1(C) through (F) or similar  
1583 provisions of any successor law.

1584 § 23-50.15:33. Chapter liberally construed.

1585 This chapter shall be liberally construed and applied to promote its underlying purposes and  
1586 policies.

1587 § 23-50.15:34. Exemption of Authority from personnel, procurement, and capital outlay procedures.

1588 The provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 and Chapter 7 (§ 11-35 et seq.) of Title  
1589 11 shall not apply to the Authority in the exercise of any power conferred under this chapter.  
1590 Notwithstanding any provision of law or regulation to the contrary, the Authority shall not be subject to  
1591 any process or procedure that requires the submission, review or approval of any capital outlay project.

1592 § 23-50.15:35. Reversion to University.

1593 Upon dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall  
1594 revert to the University.

1595 § 23-232. Establishment authorized; employment of officers.

1596 A. The governing board of each public institution of higher learning named in § 23-14, hereafter  
1597 sometimes referred to in this chapter as "institution," is authorized to establish a campus police

department and to employ campus police officers and auxiliary forces upon appointment as provided in §§ 23-233 and 23-233.1. Such employment shall be governed by the Virginia Personnel Act, as set forth in Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.

*B. The Medical College of Virginia Hospitals Authority shall be authorized to employ police officers and auxiliary forces as provided in this chapter and in § 23-50.15:10, except that the employment of such officers and forces shall not be governed by the Virginia Personnel Act (§ 21.-110 et seq.).*

§ 32.1-85. Adoption.

A formulary of another state or of any agency of the United States, a formulary in use at the University of Virginia Hospital or the ~~hospitals of Virginia Commonwealth University Medical College of Virginia Hospitals~~ or any combination of such formularies may be adopted for use as the Virginia Voluntary Formulary pending the adoption of an original Formulary. Not later than July 1, 1981, the Council shall commence to compile an original Formulary.

§ 51.1-126.1. Certain employees of teaching hospitals.

A. Any teaching hospital affiliated with an institution of higher education may establish a retirement plan covering in whole or in part its employees who are health care providers, as determined by the Department of Personnel and Training pursuant to § 2.1-116, and is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in the retirement system established by this chapter. Any such alternative retirement plan shall not become effective until July 1, 1991, or any time thereafter, as determined by such teaching hospital. Any health care provider employed by such teaching hospital on or after July 1, 1991, may make an irrevocable election to participate in either the retirement plan established by this chapter or the plan provided by the teaching hospital, in accordance with guidelines established by the Virginia Retirement System. The election herein provided shall, as to any health care provider employed after the alternative retirement plan implementation date, be exercised not later than thirty-one days from the time of entry upon the performance of his duties.

B. No health care provider employed by a teaching hospital who is an active member of a plan established under this section shall also be an active member of the retirement system or a beneficiary other than a contingent annuitant.

C. The contribution by the Commonwealth to any other retirement plan established on behalf of health care providers as provided in subsection A shall be the contribution by the Commonwealth which would be required if the health care provider were a member of the retirement system or eight percent of creditable compensation, whichever is less.

D. If the institution of higher education with which the teaching hospital is affiliated has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established under this section shall offer the same investment opportunities as are available to the participants of the plan established under § 51.1-126.

E. The Virginia Retirement System shall develop policies and procedures, as approved by the Secretaries of Administration and Education, for the administration of the retirement plan established under this section.

*F. Pursuant to § 23-50.15:22, employees of the Medical College of Virginia Hospitals Authority shall be eligible to continue their participation in the Virginia Retirement System or in an alternative retirement plan offered pursuant to this section.*

**2. That the provisions of §§ 9-156, 9-166.2, 23-50.11, 23-232, 32.1-85, and 51.1-126.1 shall become effective on the transfer date, as defined in § 23-50.15:4.**