

24103088D

SENATE BILL NO. 579

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact § 32.1-127, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to nursing homes and certified nursing facilities; professional liability insurance.

Patron—Obenshain

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-127, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 32.1-127. (Effective until July 1, 2025) Regulations.

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

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

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

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

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

INTRODUCED

SB579

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

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

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

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

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

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

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

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

99 13. Shall require that each nursing home and certified nursing facility register with the Department of
100 State Police to receive notice of the registration, reregistration, or verification of registration information of
101 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to
102 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or
103 facility is located, pursuant to § 9.1-914;

104 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,
105 whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry
106 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient
107 will have a length of stay greater than three days or in fact stays longer than three days;

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

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

120 residents in the facility;

121 17. Shall require that each nursing home and certified nursing facility maintain liability insurance
122 coverage in a minimum amount of \$1 million, and *noneroding* professional liability coverage in an amount at
123 least equal to the recovery limit set forth in § 8.01-581.15 *per occurrence*, to compensate patients or
124 individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to
125 maintain such minimum insurance shall result in revocation of the facility's license;

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

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

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

147 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a
148 policy governing determination of the medical and ethical appropriateness of proposed medical care, which
149 shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of
150 proposed medical care in cases in which a physician has determined proposed care to be medically or
151 ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is
152 medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by
153 the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the
154 proposed health care; and (iii) requirements for a written explanation of the decision reached by the
155 interdisciplinary medical review committee, which shall be included in the patient's medical record. Such
156 policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to
157 § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent
158 medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee
159 meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical
160 decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other
161 remedies available at law, including seeking court review, provided that the patient, his agent, or the person
162 authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the
163 chief executive officer of the hospital within 14 days of the date on which the physician's determination that
164 proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical
165 record;

166 22. Shall require every hospital with an emergency department to establish a security plan. Such security
167 plan shall be developed using standards established by the International Association for Healthcare Security
168 and Safety or other industry standard and shall be based on the results of a security risk assessment of each
169 emergency department location of the hospital and shall include the presence of at least one off-duty law-
170 enforcement officer or trained security personnel who is present in the emergency department at all times as
171 indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based
172 on identified risks for the emergency department, including trauma level designation, overall volume, volume
173 of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from
174 such violence, and prevalence of crime in the community, in consultation with the emergency department
175 medical director and nurse director. The security plan shall also outline training requirements for security
176 personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques,
177 appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches.
178 Such training shall also include instruction on safely addressing situations involving patients, family
179 members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance
180 abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through

181 completion of the Department of Criminal Justice Services minimum training standards for auxiliary police
182 officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at
183 least one off-duty law-enforcement officer or trained security personnel be present at all times in the
184 emergency department if the hospital demonstrates that a different level of security is necessary and
185 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

194 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an
195 existing hospital or nursing home, including beds located in a temporary structure or satellite location
196 operated by the hospital or nursing home, provided that the ability remains to safely staff services across the
197 existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's
198 determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has
199 caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a
200 shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency
201 order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the
202 Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a
203 nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to
204 the public life and health;

205 25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure
206 for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up
207 treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-
208 up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the
209 hospital;

210 26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer
211 medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a
212 valid written certification for the use of cannabis oil in accordance with § 4.1-1601;

213 27. Shall require each hospital with an emergency department to establish a protocol for the treatment and
214 discharge of individuals experiencing a substance use-related emergency, which shall include provisions for
215 (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to
216 identify medical interventions necessary for the treatment of the individual in the emergency department and
217 (ii) recommendations for follow-up care following discharge for any patient identified as having a substance
218 use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have
219 been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a)
220 the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of
221 § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or
222 other opioid antagonist used for overdose reversal, including information about accessing naloxone or other
223 opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy
224 operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or
225 other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing
226 order. Such protocols may also provide for referrals of individuals experiencing a substance use-related
227 emergency to peer recovery specialists and community-based providers of behavioral health services, or to
228 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

229 28. During a public health emergency related to COVID-19, shall require each nursing home and certified
230 nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from
231 the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid
232 Services and the Board. Such protocol shall include provisions describing (i) the conditions, including
233 conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and
234 community, under which in-person visits will be allowed and under which in-person visits will not be
235 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be
236 required to comply to protect the health and safety of the patients and staff of the nursing home or certified
237 nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff
238 support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing
239 home or certified nursing facility will take in the event of a technology failure, service interruption, or
240 documented emergency that prevents visits from occurring as required by this subdivision. Such protocol
241 shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where

appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a requirement that each nursing home and certified nursing facility publish on its website or communicate to each patient or the patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

30. During a declared public health emergency related to a communicable disease of public health threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the hospital, nursing home, or certified nursing facility; and

31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients who are minors available to such patients through a secure website shall make such health records available to such patient's parent or guardian through such secure website, unless the hospital cannot make such health record available in a manner that prevents disclosure of information, the disclosure of which has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of § 54.1-2969 has not been provided.

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

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

E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

§ 32.1-127. (Effective July 1, 2025) Regulations.

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

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities;

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

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing

304 hospitals and nursing homes by bed capacity and by type of specialty or service;

305 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal
306 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §
307 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS
308 regulations for routine contact, whereby the provider's designated organ procurement organization certified
309 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)
310 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a
311 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of
312 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The
313 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in
314 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable
315 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The
316 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to
317 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to
318 donate. The individual making contact with the family shall have completed a course in the methodology for
319 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved
320 by the organ procurement organization and designed in conjunction with the tissue and eye bank community
321 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of
322 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
323 organization in educating the staff responsible for contacting the organ procurement organization's personnel
324 on donation issues, the proper review of death records to improve identification of potential donors, and the
325 proper procedures for maintaining potential donors while necessary testing and placement of potential
326 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the
327 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative
328 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant
329 document, such as an advance directive, can be found;

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

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

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

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

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

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

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

365 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of

366 the vaccination, that each certified nursing facility and nursing home provide or arrange for the
367 administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal
368 vaccination, in accordance with the most recent recommendations of the Advisory Committee on
369 Immunization Practices of the Centers for Disease Control and Prevention;

370 13. Shall require that each nursing home and certified nursing facility register with the Department of
371 State Police to receive notice of the registration, reregistration, or verification of registration information of
372 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to
373 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or
374 facility is located, pursuant to § 9.1-914;

375 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,
376 whether a potential patient is required to register with the Sex Offender and Crimes Against Minors Registry
377 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the potential patient
378 will have a length of stay greater than three days or in fact stays longer than three days;

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

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

392 17. Shall require that each nursing home and certified nursing facility maintain liability insurance
393 coverage in a minimum amount of \$1 million, and *noneroding* professional liability coverage in an amount at
394 least equal to the recovery limit set forth in § 8.01-581.15 *per occurrence*, to compensate patients or
395 individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to
396 maintain such minimum insurance shall result in revocation of the facility's license;

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

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

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

418 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a
419 policy governing determination of the medical and ethical appropriateness of proposed medical care, which
420 shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of
421 proposed medical care in cases in which a physician has determined proposed care to be medically or
422 ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is
423 medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by
424 the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the
425 proposed health care; and (iii) requirements for a written explanation of the decision reached by the
426 interdisciplinary medical review committee, which shall be included in the patient's medical record. Such

427 policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to
428 § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent
429 medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee
430 meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical
431 decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other
432 remedies available at law, including seeking court review, provided that the patient, his agent, or the person
433 authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the
434 chief executive officer of the hospital within 14 days of the date on which the physician's determination that
435 proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical
436 record;

437 22. Shall require every hospital with an emergency department to establish a security plan. Such security
438 plan shall be developed using standards established by the International Association for Healthcare Security
439 and Safety or other industry standard and shall be based on the results of a security risk assessment of each
440 emergency department location of the hospital and shall include the presence of at least one off-duty law-
441 enforcement officer or trained security personnel who is present in the emergency department at all times as
442 indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based
443 on identified risks for the emergency department, including trauma level designation, overall volume, volume
444 of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from
445 such violence, and prevalence of crime in the community, in consultation with the emergency department
446 medical director and nurse director. The security plan shall also outline training requirements for security
447 personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques,
448 appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches.
449 Such training shall also include instruction on safely addressing situations involving patients, family
450 members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance
451 abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through
452 completion of the Department of Criminal Justice Services minimum training standards for auxiliary police
453 officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at
454 least one off-duty law-enforcement officer or trained security personnel be present at all times in the
455 emergency department if the hospital demonstrates that a different level of security is necessary and
456 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

465 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an
466 existing hospital or nursing home, including beds located in a temporary structure or satellite location
467 operated by the hospital or nursing home, provided that the ability remains to safely staff services across the
468 existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's
469 determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has
470 caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a
471 shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency
472 order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the
473 Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a
474 nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to
475 the public life and health;

476 25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure
477 for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up
478 treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-
479 up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the
480 hospital;

481 26. Shall permit nursing home staff members who are authorized to possess, distribute, or administer
482 medications to residents to store, dispense, or administer cannabis oil to a resident who has been issued a
483 valid written certification for the use of cannabis oil in accordance with § 4.1-1601;

484 27. Shall require each hospital with an emergency department to establish a protocol for the treatment and
485 discharge of individuals experiencing a substance use-related emergency, which shall include provisions for
486 (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to
487 identify medical interventions necessary for the treatment of the individual in the emergency department and

488 (ii) recommendations for follow-up care following discharge for any patient identified as having a substance
 489 use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have
 490 been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a)
 491 the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of
 492 § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or
 493 other opioid antagonist used for overdose reversal, including information about accessing naloxone or other
 494 opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy
 495 operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or
 496 other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing
 497 order. Such protocols may also provide for referrals of individuals experiencing a substance use-related
 498 emergency to peer recovery specialists and community-based providers of behavioral health services, or to
 499 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

500 28. During a public health emergency related to COVID-19, shall require each nursing home and certified
 501 nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from
 502 the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid
 503 Services and the Board. Such protocol shall include provisions describing (i) the conditions, including
 504 conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and
 505 community, under which in-person visits will be allowed and under which in-person visits will not be
 506 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be
 507 required to comply to protect the health and safety of the patients and staff of the nursing home or certified
 508 nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff
 509 support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing
 510 home or certified nursing facility will take in the event of a technology failure, service interruption, or
 511 documented emergency that prevents visits from occurring as required by this subdivision. Such protocol
 512 shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where
 513 appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a
 514 provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided
 515 that such waiver or limitation is included in the patient's health record; and (c) a requirement that each
 516 nursing home and certified nursing facility publish on its website or communicate to each patient or the
 517 patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing
 518 facility's plan for providing visits to patients as required by this subdivision;

519 29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement
 520 policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient,
 521 in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection
 522 of health information in accordance with the requirements of the federal Health Insurance Portability and
 523 Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision,
 524 "intelligent personal assistant" means a combination of an electronic device and a specialized software
 525 application designed to assist users with basic tasks using a combination of natural language processing and
 526 artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

527 30. During a declared public health emergency related to a communicable disease of public health threat,
 528 shall require each hospital, nursing home, and certified nursing facility to establish a protocol to allow
 529 patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect
 530 consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare
 531 and Medicaid Services and subject to compliance with any executive order, order of public health,
 532 Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation.
 533 Such protocol may restrict the frequency and duration of visits and may require visits to be conducted
 534 virtually using interactive audio or video technology. Any such protocol may require the person visiting a
 535 patient pursuant to this subdivision to comply with all reasonable requirements of the hospital, nursing home,
 536 or certified nursing facility adopted to protect the health and safety of the person, patients, and staff of the
 537 hospital, nursing home, or certified nursing facility;

538 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients
 539 who are minors available to such patients through a secure website shall make such health records available
 540 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health
 541 record available in a manner that prevents disclosure of information, the disclosure of which has been denied
 542 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of
 543 § 54.1-2969 has not been provided; and

544 32. Shall require each certified nursing facility eligible to participate in the Virginia Medicaid Nursing
 545 Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of Assembly of
 546 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse staffing hours per
 547 resident per day on average as determined annually by the Department of Medical Assistance Services for use
 548 in the VBP program, utilizing job codes for the calculation of total nurse staffing hours per resident per day

549 following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for
550 similar purposes and including certified nursing assistants, licensed practical nurses, and registered nurses.
551 No additional reporting shall be required by a certified nursing facility under this subdivision.

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

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

562 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for the
563 provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.