

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

SENATE BILL NO. 1152  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on )  
(Patron Prior to Substitute—Senator Obenshain)

*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.*

on \_\_\_\_\_)

**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;

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

33 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal  
34 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §  
35 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS  
36 regulations for routine contact, whereby the provider's designated organ procurement organization certified  
37 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)  
38 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a  
39 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of  
40 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The  
41 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in  
42 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable  
43 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The  
44 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to  
45 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to  
46 donate. The individual making contact with the family shall have completed a course in the methodology for  
47 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved  
48 by the organ procurement organization and designed in conjunction with the tissue and eye bank community  
49 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of  
50 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement  
51 organization in educating the staff responsible for contacting the organ procurement organization's personnel  
52 on donation issues, the proper review of death records to improve identification of potential donors, and the  
53 proper procedures for maintaining potential donors while necessary testing and placement of potential  
54 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the  
55 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative  
56 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant  
57 document, such as an advance directive, can be found;

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

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

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

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

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

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

86 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or  
87 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or  
88 treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give

89 patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time  
90 not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital  
91 policies and procedures, by the person giving the order, or, when such person is not available within the  
92 period of time specified, co-signed by another physician or other person authorized to give the order;

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

98 13. Shall require that each nursing home and certified nursing facility register with the Department of  
99 State Police to receive notice of the registration, reregistration, or verification of registration information of  
100 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to  
101 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  
102 facility is located, pursuant to § 9.1-914;

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

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

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

118 restricted from participating in meetings in the facility with the families or resident representatives of other  
119 residents in the facility;

120 17. Shall require that each nursing home and certified nursing facility maintain, *per facility, general*  
121 *liability insurance coverage in a minimum amount of \$1 million per occurrence, and professional liability*  
122 *coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 per patient occurrence, to*  
123 *compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the*  
124 *facility. Minimum combined general and professional liability aggregate policy limits shall be equal to a \$5*  
125 *million aggregate policy limit for each facility insured under the insurance policy. No insurance policy under*  
126 *this section shall have limits that are reduced or eroded by the cost of litigation that exceed \$50,000 per*  
127 *patient occurrence per insurance policy. Occurrence or claims-made insurance coverage policies are*  
128 *permissible to meet the requirements of this section. Failure to maintain such minimum insurance limits*  
129 *under this section shall result in revocation of the facility's license if not cured within 10 business days of*  
130 *being notified of such failure by any person. Each nursing home and certified nursing facility shall provide at*  
131 *licensure renewal or have available to the Board proof of the insurance coverages as required by this section*  
132 ;

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

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

141 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that  
142 requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal  
143 communication between the on-call physician in the psychiatric unit and the referring physician, if requested  
144 by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for  
145 such direct verbal communication by a referring physician and (ii) a patient for whom there is a question  
146 regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due

147 to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which  
148 the patient is sought to be transferred to participate in direct verbal communication, either in person or via  
149 telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information  
150 employed by a poison control center that is accredited by the American Association of Poison Control  
151 Centers to review the results of the toxicology screen and determine whether a medical reason for refusing  
152 admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the  
153 referring physician;

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

173 22. Shall require every hospital with an emergency department to establish a security plan. Such security  
174 plan shall be developed using standards established by the International Association for Healthcare Security  
175 and Safety or other industry standard and shall be based on the results of a security risk assessment of each

176 emergency department location of the hospital and shall include the presence of at least one off-duty  
177 law-enforcement officer or trained security personnel who is present in the emergency department at all times  
178 as indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based  
179 on identified risks for the emergency department, including trauma level designation, overall volume, volume  
180 of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from  
181 such violence, and prevalence of crime in the community, in consultation with the emergency department  
182 medical director and nurse director. The security plan shall also outline training requirements for security  
183 personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques,  
184 appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches.  
185 Such training shall also include instruction on safely addressing situations involving patients, family  
186 members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance  
187 abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through  
188 completion of the Department of Criminal Justice Services minimum training standards for auxiliary police  
189 officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at  
190 least one off-duty law-enforcement officer or trained security personnel be present at all times in the  
191 emergency department if the hospital demonstrates that a different level of security is necessary and  
192 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

201 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds in an  
202 existing hospital or nursing home, including beds located in a temporary structure or satellite location  
203 operated by the hospital or nursing home, provided that the ability remains to safely staff services across the  
204 existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's

205 determination plus 30 days when the Commissioner has determined that a natural or man-made disaster has  
206 caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a  
207 shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the emergency  
208 order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to § 32.1-13, or the  
209 Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of suppressing a  
210 nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to  
211 the public life and health;

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

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

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



234 emergency to peer recovery specialists and community-based providers of behavioral health services, or to  
235 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

236 28. During a public health emergency related to COVID-19, shall require each nursing home and certified  
237 nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from  
238 the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid  
239 Services and the Board. Such protocol shall include provisions describing (i) the conditions, including  
240 conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and  
241 community, under which in-person visits will be allowed and under which in-person visits will not be  
242 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be  
243 required to comply to protect the health and safety of the patients and staff of the nursing home or certified  
244 nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff  
245 support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing  
246 home or certified nursing facility will take in the event of a technology failure, service interruption, or  
247 documented emergency that prevents visits from occurring as required by this subdivision. Such protocol  
248 shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where  
249 appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a  
250 provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided  
251 that such waiver or limitation is included in the patient's health record; and (c) a requirement that each  
252 nursing home and certified nursing facility publish on its website or communicate to each patient or the  
253 patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing  
254 facility's plan for providing visits to patients as required by this subdivision;

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

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

274 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients  
275 who are minors available to such patients through a secure website shall make such health records available  
276 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health  
277 record available in a manner that prevents disclosure of information, the disclosure of which has been denied  
278 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of  
279 § 54.1-2969 has not been provided.

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

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

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

292 § 32.1-127. (Effective July 1, 2025) Regulations.

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

298 B. Such regulations:

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

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

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

312 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal  
313 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §  
314 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS  
315 regulations for routine contact, whereby the provider's designated organ procurement organization certified  
316 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)  
317 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a  
318 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of  
319 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The  
320 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in

321 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable  
322 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The  
323 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to  
324 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to  
325 donate. The individual making contact with the family shall have completed a course in the methodology for  
326 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved  
327 by the organ procurement organization and designed in conjunction with the tissue and eye bank community  
328 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of  
329 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement  
330 organization in educating the staff responsible for contacting the organ procurement organization's personnel  
331 on donation issues, the proper review of death records to improve identification of potential donors, and the  
332 proper procedures for maintaining potential donors while necessary testing and placement of potential  
333 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the  
334 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative  
335 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant  
336 document, such as an advance directive, can be found;

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

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

350 manager. The community services board shall implement and manage the discharge plan;

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

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

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

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

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

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

377 13. Shall require that each nursing home and certified nursing facility register with the Department of  
378 State Police to receive notice of the registration, reregistration, or verification of registration information of

379 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to  
380 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  
381 facility is located, pursuant to § 9.1-914;

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

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

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

399 17. Shall require that each nursing home and certified nursing facility maintain, *per facility, general*  
400 *liability insurance coverage in a minimum amount of \$1 million per occurrence, and professional liability*  
401 *coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 per patient occurrence, to*  
402 *compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the*  
403 *facility. Minimum combined general and professional liability aggregate policy limits shall be equal to a \$5*  
404 *million aggregate policy limit for each facility insured under the insurance policy. No insurance policy under*  
405 *this section shall have limits that are reduced or eroded by the cost of litigation that exceed \$50,000 per*  
406 *patient occurrence per insurance policy. Occurrence or claims-made insurance coverage policies are*  
407 *permissible to meet the requirements of this section. Failure to maintain such minimum insurance limits*

408 *under this section shall result in revocation of the facility's license if not cured within 10 business days of*  
409 *being notified of such failure by any person. Each nursing home and certified nursing facility shall provide at*  
410 *licensure renewal or have available to the Board proof of the insurance coverages as required by this section*  
411 *;*

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

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

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

433 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a  
434 policy governing determination of the medical and ethical appropriateness of proposed medical care, which  
435 shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of  
436 proposed medical care in cases in which a physician has determined proposed care to be medically or

437 ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is  
438 medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by  
439 the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the  
440 proposed health care; and (iii) requirements for a written explanation of the decision reached by the  
441 interdisciplinary medical review committee, which shall be included in the patient's medical record. Such  
442 policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to  
443 § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent  
444 medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee  
445 meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical  
446 decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other  
447 remedies available at law, including seeking court review, provided that the patient, his agent, or the person  
448 authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the  
449 chief executive officer of the hospital within 14 days of the date on which the physician's determination that  
450 proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical  
451 record;

452 22. Shall require every hospital with an emergency department to establish a security plan. Such security  
453 plan shall be developed using standards established by the International Association for Healthcare Security  
454 and Safety or other industry standard and shall be based on the results of a security risk assessment of each  
455 emergency department location of the hospital and shall include the presence of at least one off-duty  
456 law-enforcement officer or trained security personnel who is present in the emergency department at all times  
457 as indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based  
458 on identified risks for the emergency department, including trauma level designation, overall volume, volume  
459 of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from  
460 such violence, and prevalence of crime in the community, in consultation with the emergency department  
461 medical director and nurse director. The security plan shall also outline training requirements for security  
462 personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques,  
463 appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches.  
464 Such training shall also include instruction on safely addressing situations involving patients, family  
465 members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance



466 abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through  
467 completion of the Department of Criminal Justice Services minimum training standards for auxiliary police  
468 officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at  
469 least one off-duty law-enforcement officer or trained security personnel be present at all times in the  
470 emergency department if the hospital demonstrates that a different level of security is necessary and  
471 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

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

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

495 hospital;

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

499 27. Shall require each hospital with an emergency department to establish a protocol for the treatment and  
500 discharge of individuals experiencing a substance use-related emergency, which shall include provisions for  
501 (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to  
502 identify medical interventions necessary for the treatment of the individual in the emergency department and  
503 (ii) recommendations for follow-up care following discharge for any patient identified as having a substance  
504 use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have  
505 been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a)  
506 the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of  
507 § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or  
508 other opioid antagonist used for overdose reversal, including information about accessing naloxone or other  
509 opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy  
510 operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or  
511 other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing  
512 order. Such protocols may also provide for referrals of individuals experiencing a substance use-related  
513 emergency to peer recovery specialists and community-based providers of behavioral health services, or to  
514 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

515 28. During a public health emergency related to COVID-19, shall require each nursing home and certified  
516 nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from  
517 the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid  
518 Services and the Board. Such protocol shall include provisions describing (i) the conditions, including  
519 conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and  
520 community, under which in-person visits will be allowed and under which in-person visits will not be  
521 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be  
522 required to comply to protect the health and safety of the patients and staff of the nursing home or certified  
523 nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff

524 support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing  
525 home or certified nursing facility will take in the event of a technology failure, service interruption, or  
526 documented emergency that prevents visits from occurring as required by this subdivision. Such protocol  
527 shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where  
528 appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a  
529 provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided  
530 that such waiver or limitation is included in the patient's health record; and (c) a requirement that each  
531 nursing home and certified nursing facility publish on its website or communicate to each patient or the  
532 patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing  
533 facility's plan for providing visits to patients as required by this subdivision;

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

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

553 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients  
554 who are minors available to such patients through a secure website shall make such health records available  
555 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health  
556 record available in a manner that prevents disclosure of information, the disclosure of which has been denied  
557 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of  
558 § 54.1-2969 has not been provided; and

559 32. Shall require each certified nursing facility eligible to participate in the Virginia Medicaid Nursing  
560 Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of Assembly of  
561 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse staffing hours per  
562 resident per day on average as determined annually by the Department of Medical Assistance Services for use  
563 in the VBP program, utilizing job codes for the calculation of total nurse staffing hours per resident per day  
564 following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for  
565 similar purposes and including certified nursing assistants, licensed practical nurses, and registered nurses.  
566 No additional reporting shall be required by a certified nursing facility under this subdivision.

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

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

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