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1 **HOUSE BILL NO. 1088**

2 Offered January 14, 2026

3 Prefiled January 14, 2026

4 *A BILL to amend and reenact § 63.2-1805 of the Code of Virginia, relating to assisted living facilities;*
5 *involuntary discharge; notice.*

6 Patron—Walker

7 Committee Referral Pending

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 63.2-1805 of the Code of Virginia is amended and reenacted as follows:**10 **§ 63.2-1805. Admissions and discharge; mandatory minimum liability insurance.**

11 A. The Board shall adopt regulations:

12 1. Governing admissions to assisted living facilities;

13 2. Requiring that each assisted living facility prepare and provide a statement, in a format prescribed by
14 the Department, to any prospective resident and his legal representative, if any, prior to admission and upon
15 request, that discloses information, fully and accurately in plain language, about the (i) services; (ii) fees,
16 including clear information about what services are included in the base fee and any fees for additional
17 services; (iii) admission, transfer, and discharge criteria, including criteria for transfer to another level of care
18 within the same facility or complex; (iv) general number and qualifications of staff on each shift; (v) range,
19 frequency, and number of activities provided for residents; and (vi) ownership structure of the facility;20 3. Establishing a process to ensure that each resident admitted or retained in an assisted living facility
21 receives appropriate services and periodic independent reassessments and reassessments when there is a
22 significant change in the resident's condition in order to determine whether a resident's needs can continue to
23 be met by the facility and whether continued placement in the facility is in the best interests of the resident;24 4. Governing appropriate discharge planning for residents whose care needs can no longer be met by the
25 facility;26 5. Addressing the involuntary discharge of residents. Such regulations shall provide that residents may be
27 involuntarily discharged only (i) in accordance with Board regulations, provided that the assisted living
28 facility has met the requirements of subsection B, as applicable, and the assisted living facility has made
29 reasonable efforts to meet the needs of the resident; (ii) for nonpayment of contracted charges, provided that
30 the resident has been given at least 30 45 days to cure the delinquency after notice was provided to the
31 resident and the resident's legal representative or designated contact person of such nonpayment; (iii) for the
32 resident's failure to substantially comply with the terms and conditions, as allowed by regulation, of the
33 resident agreement between the resident and assisted living facility; (iv) if the assisted living facility closes in
34 accordance with Board regulations; or (v) when the resident develops a condition or care need that is
35 prohibited by subsection D or Board regulations. Unless an emergency discharge is necessary due to an
36 immediate and serious risk to the health, safety, or welfare of the resident or others, the assisted living facility
37 shall, prior to involuntarily discharging a resident, make reasonable efforts, as appropriate, to resolve any
38 issues with the resident upon which the decision to discharge is based and document such efforts in the
39 resident's file.40 In addition to providing the written discharge notice to the resident and the resident's legal representative
41 or designated contact person, the assisted living facility shall provide a copy of the notice to the Department
42 and the State Long-Term Care Ombudsman at least 30 45 days prior to an involuntary discharge unless an
43 emergency discharge is necessary due to an immediate and serious risk to the health, safety, or welfare of the
44 resident or others. Such notice of discharge shall include the reasons for discharge, the date on which the
45 discharge will occur, and information regarding the resident's right to appeal, within the 30-day 45-day notice
46 period, the assisted living facility's decision to discharge the resident.47 In cases of an emergency discharge, such notice shall be provided as soon as possible, but no later than
48 five days after the emergency discharge. Within five days after an emergency discharge, the written discharge
49 notice shall be provided to the resident, the resident's legal representative or designated contact person, the
50 Department, and the State Long-Term Care Ombudsman. A resident may appeal any discharge except
51 discharges pursuant to clause (iv).52 The Department shall provide the discharge notice form to be used by assisted living facilities to provide
53 notice to a resident of the resident's right to appeal such facility's decision to discharge the resident, which
54 shall also include information regarding the process for initiating an appeal, the number for a toll-free
55 information line, a hearing request form, the facility's obligation to assist the resident in filing an appeal and
56 provide, upon request, a postage prepaid envelope addressed to the Department, and a statement of the
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HB1088

59 resident's right to continue to reside in the facility, free from retaliation, until the appeal has a final
60 Department case decision unless the discharge is an emergency discharge or the resident has developed a
61 condition or care need that is prohibited by subsection D or Board regulations. Where a resident has been
62 removed under an emergency discharge and no longer resides in the facility, the resident retains the right to
63 appeal.

64 Prior to involuntarily discharging a resident, the assisted living facility shall provide relocation assistance
65 to the resident and the resident's legal representative in accordance with Board regulation. The Board shall
66 adopt regulations that establish a process for appeals filed pursuant to this subdivision;

67 6. Requiring that residents are informed of their rights pursuant to § 63.2-1808 at the time of admission;

68 7. Establishing a process to ensure that any resident temporarily detained in a facility pursuant to
69 §§ 37.2-809 through 37.2-813 is accepted back in the assisted living facility if the resident is not involuntarily
70 admitted pursuant to §§ 37.2-814 through 37.2-819;

71 8. Requiring that each assisted living facility train all employees who are mandated to report adult abuse,
72 neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for
73 failing to make a required report;

74 9. Requiring that each assisted living facility prepare and provide, upon request, a statement, in a format
75 prescribed by the Board, to any resident or prospective resident and his legal representative, if any, that states
76 the assisted living facility maintains liability insurance in force to compensate residents or other individuals
77 for injuries and losses from the negligent acts of the facility;

78 10. Establishing the minimum amount of liability insurance coverage to be maintained by an assisted
79 living facility. In establishing such minimum amount of liability insurance, the Board shall consider the
80 number of residents for which an assisted living facility is licensed and establish a minimum amount of
81 liability insurance for the following tiers: Tier I, which shall govern assisted living facilities with no more
82 than 25 residents; Tier II, which shall govern assisted living facilities with more than 25 residents but no
83 more than 75 residents; Tier III, which shall govern assisted living facilities with more than 75 residents but
84 no more than 150 residents; and Tier IV, which shall govern assisted living facilities with more than 150
85 residents; and

86 11. Requiring that all assisted living facilities disclose to each prospective resident, or his legal
87 representative, in writing in a document provided to the prospective resident or his legal representative and as
88 evidenced by the written acknowledgment of the resident or his legal representative on the same document,
89 whether the facility has an on-site emergency electrical power source for the provision of electricity during an
90 interruption of the normal electric power supply and, if the assisted living facility does have an on-site
91 emergency electrical power source, (i) the items for which such on-site emergency electrical power source
92 will supply power in the event of an interruption of the normal electric power supply and (ii) whether staff of
93 the assisted living facility have been trained to maintain and operate such on-site emergency electrical power
94 source to ensure the provision of electricity during an interruption of the normal electrical power supply. For
95 the purposes of this subdivision, an on-site emergency electrical power supply shall include both permanent
96 emergency electrical power supply sources and portable emergency electrical power sources, provided that
97 such temporary electrical power supply source remains on the premises of the assisted living facility at all
98 times. Written acknowledgement of the disclosure shall be represented by the signature or initials of the
99 resident or his legal representative immediately following the on-site emergency electrical power source
100 disclosure statement.

101 B. If there are observed behaviors or patterns of behavior indicative of mental illness, intellectual
102 disability, substance abuse, or behavioral disorders, as documented in the uniform assessment instrument
103 completed pursuant to § 63.2-1804, the facility administrator or designated staff member shall ensure that an
104 evaluation of the individual is or has been conducted by a qualified professional as defined in regulations. If
105 the evaluation indicates a need for mental health, developmental, substance abuse, or behavioral disorder
106 services, the facility shall provide (i) a notification of the resident's need for such services to the authorized
107 contact person of record when available and (ii) a notification of the resident's need for such services to the
108 community services board or behavioral health authority established pursuant to Title 37.2 that serves the city
109 or county in which the facility is located, or other appropriate licensed provider. The Department shall not
110 take adverse action against a facility that has demonstrated and documented a continual good faith effort to
111 meet the requirements of this subsection.

112 C. The Department shall not order the removal of a resident from an assisted living facility if (i) the
113 resident, the resident's family, the resident's physician, and the facility consent to the resident's continued stay
114 in the assisted living facility and (ii) the facility is capable of providing, obtaining, or arranging for the
115 provision of necessary services for the resident, including, but not limited to, home health care or hospice
116 care.

117 D. Notwithstanding the provisions of subsection C, assisted living facilities shall not admit or retain an
118 individual with any of the following conditions or care needs:

- 119 1. Ventilator dependency.
- 120 2. Dermal ulcers III and IV, except those stage III ulcers that are determined by an independent physician

121 to be healing.

122 3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy
123 managed by a health care professional licensed in Virginia or as permitted in subsection E.

124 4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires
125 special precautions by the caretaker to prevent transmission of the disease, including diseases such as
126 tuberculosis and excluding infections such as the common cold.

127 5. Psychotropic medications without appropriate diagnosis and treatment plans.

128 6. Nasogastric tubes.

129 7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the
130 tube or as permitted in subsection E.

131 8. An imminent physical threat or danger to self or others is presented by the individual.

132 9. Continuous licensed nursing care (seven-days-a-week, 24-hours-a-day) is required by the individual.

133 10. Placement is no longer appropriate as certified by the individual's physician.

134 11. Maximum physical assistance is required by the individual as documented by the uniform assessment
135 instrument and the individual meets Medicaid nursing facility level-of-care criteria as defined in the State
136 Plan for Medical Assistance, unless the individual's independent physician determines otherwise. Maximum
137 physical assistance means that an individual has a rating of total dependence in four or more of the seven
138 activities of daily living as documented on the uniform assessment instrument.

139 12. The assisted living facility determines that it cannot meet the individual's physical or mental health
140 care needs.

141 13. Other medical and functional care needs that the Board determines cannot be met properly in an
142 assisted living facility.

143 E. Except for auxiliary grant recipients, at the request of the resident in an assisted living facility and
144 when his independent physician determines that it is appropriate, (i) care for the conditions or care needs
145 defined in subdivisions D 3 and 7 may be provided to the resident by a licensed physician, a licensed nurse or
146 a nurse holding a multistate licensure privilege under a physician's treatment plan, or a home care
147 organization licensed in Virginia or (ii) care for the conditions or care needs defined in subdivision D 7 may
148 also be provided to the resident by facility staff if the care is delivered in accordance with the regulations of
149 the Board of Nursing for delegation by a registered nurse Part VIII (18VAC90-20-420 et seq.) of
150 18VAC90-20.

151 The Board shall adopt regulations to implement the provisions of this subsection.

152 F. In adopting regulations pursuant to subsections A, B, C, D, and E, the Board shall consult with the
153 Departments of Health and Behavioral Health and Developmental Services.