

## HOUSE BILL NO. 435

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services

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

(Patron Prior to Substitute—Delegate LeVere Bolling)

*A BILL to amend and reenact §§ 32.1-127 and 32.1-162.1 of the Code of Virginia and to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 and 32.1-377, relating to Palliative Care Information and Education Program; Palliative Care and Quality of Life Advisory Council established.*

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

**1. That §§ 32.1-127 and 32.1-162.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 and 32.1-377, as follows:**

**§ 32.1-127. 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 the Commonwealth and is primarily responsible for the emergency department shall be on duty and physically present at all times at

each hospital that 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;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or

transfer of any pregnant woman who presents herself while in labor;

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

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

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

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

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

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

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

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

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

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

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

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

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

17. Shall require that each nursing home and certified nursing facility maintain, per facility, non-eroding general liability insurance coverage in a minimum amount of \$1 million per occurrence, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 per patient occurrence, to compensate patients or individuals for injuries and losses resulting from the negligent acts of the facility. Failure to maintain such minimum insurance limits under this section shall result in revocation of the facility's license. Each nursing home and certified nursing facility shall provide at licensure renewal or have available to the Board proof of the insurance coverages as required by this section;

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

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

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

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

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

Such training shall also include instruction on safely addressing situations involving patients, family members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through completion of the Department of Criminal Justice Services minimum training standards for auxiliary police officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at least one off-duty law-enforcement officer or trained security personnel be present at all times in the emergency department if the hospital demonstrates that a different level of security is necessary and appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

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

25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-

210 up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the  
211 hospital;

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

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

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



support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing home or certified nursing facility will take in the event of a technology failure, service interruption, or documented emergency that prevents visits from occurring as required by this subdivision. Such protocol 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;

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

275 32. Shall require that every hospital where surgical procedures are performed adopt a policy requiring the  
276 use of a smoke evacuation system for all planned surgical procedures that are likely to generate surgical  
277 smoke. For the purposes of this subdivision, "smoke evacuation system" means smoke evacuation equipment  
278 and technologies designed to capture, filter, and remove surgical smoke at the site of origin and to prevent  
279 surgical smoke from making ocular contact or contact with a person's respiratory tract;

280 33. Shall require every hospital with an emergency department, when conducting a urine drug screening  
281 to assist in diagnosing a patient's condition, to include testing for fentanyl in such urine drug screening; ~~and~~

282 34. Shall establish fees for the issuance, change, or renewal of a hospital or nursing home license to cover  
283 the costs of operating the hospital and nursing home licensure and inspection program in a manner that  
284 ensures timely completion of inspections as set forth in § 32.1-126. In establishing such fees, the Board shall  
285 distribute the costs of operating the hospital and nursing home licensure and inspection program in an  
286 equitable manner across all hospitals or nursing homes and ensure that the amount of such fees shall change  
287 no more frequently than annually. Fee changes under this section shall only be initiated if the expenses  
288 allocated to the Hospital and Nursing Home Licensure and Inspection Program Fund established under  
289 § 32.1-130, plus any state or other funding sources appropriated for the hospital and nursing home licensure  
290 and inspection program, are shown to be more than 10 percent greater or less than the annual costs of  
291 operating the hospital and nursing home licensure and inspection program in a manner that ensures timely  
292 completion of inspections. This analysis shall be conducted separately for hospital fees and nursing home  
293 fees, and resulting fee changes shall be established such that fees are sufficient to cover unfunded expenses  
294 but not excessive; *and*

295 35. *Shall require every hospital, nursing home, and certified nursing facility licensed pursuant to this*  
296 *chapter to (i) establish a system for identifying patients or residents who may benefit from palliative care and*  
297 *(ii) provide information about and facilitate access to appropriate palliative care services for patients or*  
298 *residents experiencing illness, injuries, or conditions that substantially affect quality of life for more than a*  
299 *short period of time, including cancer, heart failure, renal failure, liver failure, chronic spinal injury,*

traumatic brain injury, lung disease, ALS, and Alzheimer's disease and related conditions. The Board shall develop such regulations in consultation with the Palliative Care and Quality of Life Advisory Council and shall consider factors that may affect the development of such system and the ability of such system to facilitate access to palliative care, including the size of the licensee; access and proximity of the licensee to palliative care services, including hospice and board-certified palliative care providers; and geographic factors. For the purposes of this subdivision, "palliative care" means the same as that term is defined in § 32.1-162.1.

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

F. Hospitals in the Commonwealth shall:

1. Establish a workplace violence incident reporting system, through which each hospital shall document, track, and analyze any incident of workplace violence reported. The results of such analysis shall be used to make improvements in preventing workplace violence, including improvements achieved through continuing education in targeted areas, including de-escalation training, risk identification, and violence prevention planning. Such reporting system shall (i) be clearly communicated to all employees, including to any new employees at the employee orientation, and (ii) include guidelines on when and how to report incidents of workplace violence to the employer, security agencies, and appropriate law-enforcement authorities;

2. Record all reported incidents of workplace violence as voluntarily reported by an employee; and

3. Adopt a policy that prohibits any person from discriminating or retaliating against any employee of the hospital for reporting to, or seeking assistance or intervention from, the employer, security agencies,

330 law-enforcement authorities, local emergency services organizations, government agencies, or others  
331 participating in any incident investigation. Such policy shall comply with the provisions of § 40.1-27.3.

332 G. Each hospital in the Commonwealth shall maintain the record of reported incidents of workplace  
333 violence made pursuant to subsection F for at least two years and shall include in such record, at a minimum:

334 1. The date and time of the incident;

335 2. A description of the incident, including the job titles of the affected employee;

336 3. Whether the perpetrator was a patient, visitor, employee, or other person;

337 4. A description of where the incident occurred;

338 5. Information relating the type of incident, including whether the incident involved (i) a physical attack  
339 without a weapon; (ii) an attack with a weapon or object; (iii) a threat of physical force or use of a weapon or  
340 other object with the intent to cause bodily harm; (iv) sexual assault or the threat of sexual assault; or (v)  
341 anything else not listed in subdivisions (i) through (iv);

342 6. The response to and any consequences of the incident, including (i) whether security or law  
343 enforcement was contacted and, if so, their response and (ii) whether the incident resulted in any change to  
344 hospital policy; and

345 7. Information about the individual who completed the report, including such individual's name, job title,  
346 and the date of completion.

347 H. Each hospital shall:

348 1. Report the data collected and reported pursuant to subsection G to the chief medical officer and the  
349 chief nursing officer of such hospital on, at a minimum, a quarterly basis; and

350 2. Send a report to the Department on an annual basis that includes, at a minimum, the number of  
351 incidents of workplace violence voluntarily reported by an employee pursuant to subsection F. Any report  
352 made to the Department pursuant to this subdivision shall be aggregated to remove any personally  
353 identifiable information.

354 I. As used in this section:

355 "Employee of the hospital" or "employee" means an employee of the hospital or any health care provider  
356 credentialed by the hospital or engaged by the hospital to perform health care services on the premises of the  
357 hospital.

358 "Workplace violence" means any act of violence or threat of violence, without regard to the intent of the

perpetrator, that occurs against an employee of the hospital while on the premises of such hospital and engaged in the performance of his duties. "Workplace violence" includes (i) the threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether physical injury is sustained, and (ii) any incident involving the threat of using dangerous weapons or using common objects as weapons or to cause physical harm, regardless of whether physical injury is sustained.

**§ 32.1-162.1. Definitions.**

As used in this article unless a different meaning or construction is clearly required by the context or otherwise:

"Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative and supportive medical and other health services to terminally ill patients and their families. A hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs which are experienced during the final stages of illness, and during dying and bereavement. Hospice care shall be available twenty-four hours a day, seven days a week.

"Hospice facility" means an institution, place, or building owned or operated by a hospice provider and licensed by the Department to provide room, board, and appropriate hospice care on a 24-hour basis, including respite and symptom management, to individuals requiring such care pursuant to the orders of a physician. Such facilities with 16 or fewer beds are exempt from Certificate of Public Need laws and regulations. Such facilities with more than 16 beds shall be licensed as a nursing facility or hospital and shall be subject to Certificate of Public Need laws and regulations.

"Hospice patient" means a diagnosed terminally ill patient, with an anticipated life expectancy of six months or less, who, alone or in conjunction with designated family members, has voluntarily requested admission and been accepted into a licensed hospice program.

"Hospice patient's family" shall mean the hospice patient's immediate kin, including a spouse, brother, sister, child or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the hospice patient's family by mutual agreement among the hospice patient, the relation or individual, and the hospice team.

"Identifiable hospice administration" means an administrative group, individual or legal entity that has a

distinct organizational structure, accountable to the governing authority directly or through a chief executive officer. This administration shall be responsible for the management of all aspects of the program.

"Inpatient" means the provision of services, such as food, laundry, housekeeping, and staff to provide health or health-related services, including respite and symptom management, to hospice patients, whether in a hospital, nursing facility, or hospice facility.

"Interdisciplinary team" means the patient and the patient's family, the attending physician, and the following hospice personnel: physician, nurse, social worker, and trained volunteer. Physician assistants and providers of special services, such as clergy, mental health, pharmacy, and any other appropriate allied health services, may also be included on the team as the needs of the patient dictate.

"Palliative care" means ~~treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process, rather than the treatment aimed at investigation and intervention for the purpose of cure or prolongation of life~~ *patient-centered and family-centered medical care that (i) optimizes quality of life by anticipating, preventing, and treating suffering caused by serious illness; (ii) involves addressing physical, emotional, social, and spiritual needs and facilitating patient autonomy, access to information, and choice throughout the continuum of illness; (iii) may be provided at any stage of illness; (iv) may be delivered concurrently with curative, rehabilitative, or life-prolonging treatment; and (v) is not conditioned upon prognosis, life expectancy, or decisions regarding life-sustaining treatment. "Palliative care" may include discussion of patient goals for treatment; discussion of treatment options appropriate to the patient, including hospice care; and comprehensive pain and symptom management.*

## CHAPTER 21.

### PALLIATIVE CARE CONSUMER AND PROFESSIONAL EDUCATION AND INFORMATION PROGRAM.

#### **§ 32.1-376. Palliative Care Consumer and Professional Education and Information Program.**

A. The Department shall establish a Palliative Care Consumer and Professional Education and Information Program to maximize the effectiveness of palliative care initiatives in the Commonwealth by ensuring that comprehensive and accurate information and education about palliative care is available to the public, health care providers, and health care facilities. The Department shall also develop and implement such other initiatives related to education about palliative care and the delivery of palliative care services as may be necessary to educate health care professionals and the public about palliative care.

B. The Department shall make information about and resources on palliative care available to the public, health care providers, and health care facilities on its website and shall regularly update such information

and resources. Such information shall include information about the delivery of palliative care in the home and in primary, secondary, and tertiary environments; best practices for the delivery of palliative care; consumer education materials and referral information for palliative care; and continuing education opportunities for health care providers.

**§ 32.1-377. Palliative Care and Quality of Life Advisory Council.**

A. There is hereby created in the executive branch of state government the Palliative Care and Quality of Life Advisory Council (the Council) for the purpose of advising the Department on matters related to the establishment, operation, maintenance, and outcomes evaluations of palliative care information and education initiatives established pursuant to § 32.1-376.

B. The Council shall (i) study palliative and hospice care in the Commonwealth and (ii) evaluate the availability of and any barriers to access to palliative and hospice care services in the Commonwealth. The scope of the Council's review shall include palliative and hospice care for individuals with disabilities, recipients of long-term care services, individuals with dementia, and veterans.

C. The mission of the Council shall be to (i) identify unmet needs of individuals with serious illnesses and their family members and recommend changes to address those needs; (ii) promote training and education programs for health care professionals in palliative care and hospice; (iii) ensure that the information and resources on palliative care available through the Department's website are continually updated; and (iv) promote research on palliative care and hospice throughout the Commonwealth.

D. The Council shall be composed of 11 members and shall include the Commissioner or his designee, the Commissioner for Aging and Rehabilitative Services or his designee, the Chair of the Virginia Board for People with Disabilities or his designee, and eight members to be appointed by the Governor as follows: (i) one licensed physician certified in hospice and palliative medicine, (ii) one licensed nurse with hospice and palliative care certification, (iii) one licensed social worker with hospice and palliative certification, (iv) one licensed pharmacist with experience in the field of palliative care, (v) one health care chaplain certified in palliative care, (vi) one patient or family member of a patient who is receiving or has received palliative care or hospice care, (vii) one health care ethicist or clinical ethicist, and (viii) one representative of the Virginia Association of Centers for Independent Living.

Members of the Council shall not be eligible to receive compensation; however, the Department shall provide funding for the reimbursement of expenses incurred by the members of the Council in the performance of their duties.

E. Appointments to the Council shall be for a term of two years. At the end of a term, a member shall

450 *continue to serve until a successor is appointed and qualifies to serve. A member who is appointed after a*  
451 *term has begun shall serve only for the remainder of such term and until a successor is appointed and*  
452 *qualifies. A member who serves two consecutive two-year terms may not be reappointed for two years after*  
453 *the completion of the second term. If a vacancy occurs among the members appointed by the Governor, the*  
454 *Governor shall appoint a successor.*

455 *F. A chairman and a vice-chairman, whose duties shall be established by the Council, shall be elected*  
456 *from the membership of the Council for a term of one year and shall be eligible for reelection. The Council*  
457 *shall meet at least two times per year at the call of the chairman or the Commissioner.*

458 **2. That the Palliative Care and Quality of Life Advisory Council (the Council) shall study (i) the**  
459 **possibility of establishing a high-quality and fiscally sustainable Medicaid benefit for palliative care**  
460 **and (ii) the need for a licensure scheme for palliative care providers. The Council shall report its**  
461 **findings, including a recommendation for the structure and implementation of a licensure scheme for**  
462 **palliative care providers if the Council determines that such a scheme would be beneficial to the**  
463 **Commonwealth, to the Chairs of the House Committee on Health and Human Services and the Senate**  
464 **Committee on Education and Health by November 1, 2026.**

465 **3. That the Board of Health shall develop a statewide advanced care planning campaign to increase**  
466 **public awareness of available in-person and virtual palliative care options, including discussion of a**  
467 **patient's goals of care.**