

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 32.1-127 of the Code of Virginia, relating to hospitals; emergency department*  
 3 *physicians.*

4 [S 738]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:**8 **§ 32.1-127. Regulations.**

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

14 B. Such regulations:

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

23 2. Shall provide that at least one physician who is licensed to practice medicine in the Commonwealth and  
 24 is primarily responsible for the emergency department shall be on duty and physically present at all times at  
 25 each hospital that operates or holds itself out as operating an emergency service. *No physician shall be*  
 26 *required to be on duty and physically present for a psychiatric emergency department as defined in*  
 27 *subsection A of § 37.2-809 that:*

28 *a. Is co-located immediately adjacent to an emergency department that provides emergency medical*  
 29 *treatment and has protocols requiring immediate physician response to all medical emergencies; or*

30 *b. Promotes itself to the community as only providing psychiatric services, does not offer itself to the*  
 31 *community as providing emergency medical treatment, is located within the City of Hampton, and has:*

32 *(1) A written agreement in place with local emergency medical services providers stating that patients*  
 33 *experiencing non-psychiatric emergency medical conditions will be transported to a facility that provides*  
 34 *emergency medical treatment;*

35 *(2) A transfer agreement in place with a facility that provides emergency medical treatment stating that*  
 36 *patients requiring non-psychiatric emergency medical services will be transferred to that facility;*

37 *(3) Video consultative services available with a physician at a facility that provides emergency medical*  
 38 *treatment;*

39 *(4) A medical director who is a physician with onsite clinical oversight and quality improvement*  
 40 *responsibilities for the psychiatric emergency department; and*

41 *(5) Licensed providers on duty at all times with Advanced Cardiovascular Life Support and Pediatric*  
 42 *Advanced Life Support training as well as initial Basic Life Support resuscitation capabilities who are able to*  
 43 *provide emergency medical treatment until qualified medical transport has arrived.*

44 *Hospitals with psychiatric emergency departments that meet the requirements for the exception provided*  
 45 *in this subdivision shall report (i) the number of patients seen for non-psychiatric or substance abuse*  
 46 *complaints or with non-psychiatric or substance abuse primary diagnoses, (ii) the number of patients*  
 47 *requiring transfer via emergency medical services to a facility capable of providing emergency medical*  
 48 *treatment, and (iii) the total number of patients evaluated in the psychiatric emergency department to the*  
 49 *Chairs of the Senate Committee on Education and Health, the House Committee on Health and Human*  
 50 *Services Committee, and the Behavioral Health Commission annually by November 1;*

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

53 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal  
 54 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §  
 55 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS  
 56 regulations for routine contact, whereby the provider's designated organ procurement organization certified

57 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)  
58 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a  
59 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of  
60 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The  
61 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in  
62 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable  
63 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The  
64 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to  
65 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to  
66 donate. The individual making contact with the family shall have completed a course in the methodology for  
67 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved  
68 by the organ procurement organization and designed in conjunction with the tissue and eye bank community  
69 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of  
70 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement  
71 organization in educating the staff responsible for contacting the organ procurement organization's personnel  
72 on donation issues, the proper review of death records to improve identification of potential donors, and the  
73 proper procedures for maintaining potential donors while necessary testing and placement of potential  
74 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the  
75 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative  
76 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant  
77 document, such as an advance directive, can be found;

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

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

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

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

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

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

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

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

118 13. Shall require that each nursing home and certified nursing facility register with the Department of

119 State Police to receive notice of the registration, reregistration, or verification of registration information of  
120 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to  
121 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  
122 facility is located, pursuant to § 9.1-914;

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

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

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

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

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

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

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

168 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a  
169 policy governing determination of the medical and ethical appropriateness of proposed medical care, which  
170 shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of  
171 proposed medical care in cases in which a physician has determined proposed care to be medically or  
172 ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is  
173 medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by  
174 the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the  
175 proposed health care; and (iii) requirements for a written explanation of the decision reached by the  
176 interdisciplinary medical review committee, which shall be included in the patient's medical record. Such  
177 policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to  
178 § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent  
179 medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee  
180 meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical

181 decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other  
182 remedies available at law, including seeking court review, provided that the patient, his agent, or the person  
183 authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the  
184 chief executive officer of the hospital within 14 days of the date on which the physician's determination that  
185 proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical  
186 record;

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

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

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

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

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

234 27. Shall require each hospital with an emergency department to establish a protocol for the treatment and  
235 discharge of individuals experiencing a substance use-related emergency, which shall include provisions for  
236 (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to  
237 identify medical interventions necessary for the treatment of the individual in the emergency department and  
238 (ii) recommendations for follow-up care following discharge for any patient identified as having a substance  
239 use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have  
240 been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a)  
241 the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection Y of  
242 § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or

243 other opioid antagonist used for overdose reversal, including information about accessing naloxone or other  
 244 opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy  
 245 operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or  
 246 other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing  
 247 order. Such protocols may also provide for referrals of individuals experiencing a substance use-related  
 248 emergency to peer recovery specialists and community-based providers of behavioral health services, or to  
 249 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

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

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

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

288 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients  
 289 who are minors available to such patients through a secure website shall make such health records available  
 290 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health  
 291 record available in a manner that prevents disclosure of information, the disclosure of which has been denied  
 292 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of  
 293 § 54.1-2969 has not been provided;

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

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

301 34. Shall establish fees for the issuance, change, or renewal of a hospital or nursing home license to cover  
 302 the costs of operating the hospital and nursing home licensure and inspection program in a manner that  
 303 ensures timely completion of inspections as set forth in § 32.1-126. In establishing such fees, the Board shall  
 304 distribute the costs of operating the hospital and nursing home licensure and inspection program in an

305 equitable manner across all hospitals or nursing homes and ensure that the amount of such fees shall change  
306 no more frequently than annually. Fee changes under this section shall only be initiated if the expenses  
307 allocated to the Hospital and Nursing Home Licensure and Inspection Program Fund established under  
308 § 32.1-130, plus any state or other funding sources appropriated for the hospital and nursing home licensure  
309 and inspection program, are shown to be more than 10 percent greater or less than the annual costs of  
310 operating the hospital and nursing home licensure and inspection program in a manner that ensures timely  
311 completion of inspections. This analysis shall be conducted separately for hospital fees and nursing home  
312 fees, and resulting fee changes shall be established such that fees are sufficient to cover unfunded expenses  
313 but not excessive.

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

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

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

326 F. Hospitals in the Commonwealth shall:

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

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

335 3. Adopt a policy that prohibits any person from discriminating or retaliating against any employee of the  
336 hospital for reporting to, or seeking assistance or intervention from, the employer, security agencies,  
337 law-enforcement authorities, local emergency services organizations, government agencies, or others  
338 participating in any incident investigation. Such policy shall comply with the provisions of § 40.1-27.3.

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

341 1. The date and time of the incident;

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

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

344 4. A description of where the incident occurred;

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

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

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

354 H. Each hospital shall:

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

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

361 I. As used in this section:

362 "Employee of the hospital" or "employee" means an employee of the hospital or any health care provider  
363 credentialed by the hospital or engaged by the hospital to perform health care services on the premises of the  
364 hospital.

365 "Workplace violence" means any act of violence or threat of violence, without regard to the intent of the  
366 perpetrator, that occurs against an employee of the hospital while on the premises of such hospital and

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

**ENROLLED**

**SB738ER**