

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 32.1-127 and 63.2-1701 of the Code of Virginia, relating to nursing homes*
 3 *and assisted living facilities; licensure; automated external defibrillators.*

4 [H 1522]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 32.1-127 and 63.2-1701 of the Code of Virginia are 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;

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

28 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal
 29 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §
 30 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS
 31 regulations for routine contact, whereby the provider's designated organ procurement organization certified
 32 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)
 33 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a
 34 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of
 35 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The
 36 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in
 37 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable
 38 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The
 39 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to
 40 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to
 41 donate. The individual making contact with the family shall have completed a course in the methodology for
 42 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved
 43 by the organ procurement organization and designed in conjunction with the tissue and eye bank community
 44 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of
 45 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
 46 organization in educating the staff responsible for contacting the organ procurement organization's personnel
 47 on donation issues, the proper review of death records to improve identification of potential donors, and the
 48 proper procedures for maintaining potential donors while necessary testing and placement of potential
 49 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the
 50 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative
 51 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant
 52 document, such as an advance directive, can be found;

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

55 6. Shall also require that each licensed hospital develop and implement a protocol requiring written
 56 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall

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

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

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

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

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

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

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

93 13. Shall require that each nursing home and certified nursing facility register with the Department of
94 State Police to receive notice of the registration, reregistration, or verification of registration information of
95 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to
96 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
97 facility is located, pursuant to § 9.1-914;

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

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

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

115 17. Shall require that each nursing home and certified nursing facility maintain, per facility, non-eroding
116 general liability insurance coverage in a minimum amount of \$1 million per occurrence, and professional
117 liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 per patient
118 occurrence, to compensate patients or individuals for injuries and losses resulting from the negligent acts of

119 the facility. Failure to maintain such minimum insurance limits under this section shall result in revocation of
 120 the facility's license. Each nursing home and certified nursing facility shall provide at licensure renewal or
 121 have available to the Board proof of the insurance coverages as required by this section;

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

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

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

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

162 22. Shall require every hospital with an emergency department to establish a security plan. Such security
 163 plan shall be developed using standards established by the International Association for Healthcare Security
 164 and Safety or other industry standard and shall be based on the results of a security risk assessment of each
 165 emergency department location of the hospital and shall include the presence of at least one off-duty
 166 law-enforcement officer or trained security personnel who is present in the emergency department at all times
 167 as indicated to be necessary and appropriate by the security risk assessment. Such security plan shall be based
 168 on identified risks for the emergency department, including trauma level designation, overall volume, volume
 169 of psychiatric and forensic patients, incidents of violence against staff, and level of injuries sustained from
 170 such violence, and prevalence of crime in the community, in consultation with the emergency department
 171 medical director and nurse director. The security plan shall also outline training requirements for security
 172 personnel in the potential use of and response to weapons, defensive tactics, de-escalation techniques,
 173 appropriate physical restraint and seclusion techniques, crisis intervention, and trauma-informed approaches.
 174 Such training shall also include instruction on safely addressing situations involving patients, family
 175 members, or other persons who pose a risk of harm to themselves or others due to mental illness or substance
 176 abuse or who are experiencing a mental health crisis. Such training requirements may be satisfied through
 177 completion of the Department of Criminal Justice Services minimum training standards for auxiliary police
 178 officers as required by § 15.2-1731. The Commissioner shall provide a waiver from the requirement that at
 179 least one off-duty law-enforcement officer or trained security personnel be present at all times in the
 180 emergency department if the hospital demonstrates that a different level of security is necessary and

181 appropriate for any of its emergency departments based upon findings in the security risk assessment;

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

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

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

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

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

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

243 facility's plan for providing visits to patients as required by this subdivision;

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

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

263 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients
 264 who are minors available to such patients through a secure website shall make such health records available
 265 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health
 266 record available in a manner that prevents disclosure of information, the disclosure of which has been denied
 267 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of
 268 § 54.1-2969 has not been provided;

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

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

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

289 35. *Shall require that each nursing home and certified nursing facility have and maintain an automated*
 290 *external defibrillator, as defined in § 32.1-111.1, and have staff trained to use such automated external*
 291 *defibrillator.*

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

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

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

304 F. Hospitals in the Commonwealth shall:

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

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

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

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

319 1. The date and time of the incident;

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

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

322 4. A description of where the incident occurred;

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

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

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

332 H. Each hospital shall:

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

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

339 I. As used in this section:

340 "Employee of the hospital" or "employee" means an employee of the hospital or any health care provider
341 credentialed by the hospital or engaged by the hospital to perform health care services on the premises of the
342 hospital.

343 "Workplace violence" means any act of violence or threat of violence, without regard to the intent of the
344 perpetrator, that occurs against an employee of the hospital while on the premises of such hospital and
345 engaged in the performance of his duties. "Workplace violence" includes (i) the threat or use of physical force
346 against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or
347 stress, regardless of whether physical injury is sustained, and (ii) any incident involving the threat of using
348 dangerous weapons or using common objects as weapons or to cause physical harm, regardless of whether
349 physical injury is sustained.

350 **§ 63.2-1701. Licenses required; issuance, expiration, and renewal; maximum number of residents,
351 participants or children; posting of licenses.**

352 A. As used in this section, "person" means any individual; corporation; partnership; association; limited
353 liability company; local government; state agency, including any department, institution, authority,
354 instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial
355 entity that operates or maintains a child welfare agency, adult day center, or assisted living facility.

356 B. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day
357 center, or child welfare agency shall obtain the appropriate license from the Commissioner, which may be
358 renewed. *Prior to the issuance of an initial license or renewal of a license, each assisted living facility shall*
359 *have and maintain an automated external defibrillator, as defined in § 32.1-111.1, and shall have staff*
360 *trained to use such automated external defibrillator.*

361 However, no license shall be required for an adult day center that provides services only to individuals
362 enrolled in a Programs of All-Inclusive Care for the Elderly program operated in accordance with an
363 agreement between the provider, the Department of Medical Assistance Services and the Centers for
364 Medicare and Medicaid Services. The Commissioner, upon request, shall consult with, advise, and assist any
365 person interested in securing and maintaining any such license. Each application for a license shall be made
366 to the Commissioner, in such form as he may prescribe. It shall contain the name and address of the applicant

367 and, if the applicant is an association, partnership, limited liability company, or corporation, the names and
368 addresses of its officers and agents. The application shall also contain a description of the activities proposed
369 to be engaged in and the facilities and services to be employed, together with other pertinent information as
370 the Commissioner may require. In the case of an application for licensure as a children's residential facility,
371 the application shall also contain information regarding any complaints, enforcement actions, or sanctions
372 against a license to operate a children's residential facility held by the applicant in another state.

373 C. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses may
374 be issued for concurrent operation of more than one assisted living facility, adult day center, or child welfare
375 agency, but each license shall be issued upon a separate form. Each license and renewals thereof for an
376 assisted living facility, adult day center, or child welfare agency may be issued for periods of up to three
377 successive years, unless sooner revoked or surrendered.

378 D. The length of each license or renewal thereof for an assisted living facility shall be based on the
379 judgment of the Commissioner regarding the compliance history of the facility and the extent to which it
380 meets or exceeds state licensing standards. On the basis of this judgment, the Commissioner may issue
381 licenses or renewals thereof for periods of six months, one year, two years, or three years.

382 E. The Commissioner may extend or shorten the duration of licensure periods for a child welfare agency
383 whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater
384 efficiency in staff utilization.

385 F. Each license shall indicate the maximum number of persons who may be cared for in the assisted living
386 facility, adult day center, or child welfare agency for which it is issued.

387 G. The license and any other documents required by the Commissioner shall be posted in a conspicuous
388 place on the licensed premises.

389 H. Every person issued a license that has not been suspended or revoked shall renew such license prior to
390 its expiration.

391 I. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the
392 scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be
393 licensed.

ENROLLED**HB1522ER**