

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-3106, 2.2-3705.4, 2.2-3711, as it is currently effective and as it shall*
 3 *become effective, 22.1-209.2, 23.1-2002, 23.1-2006, 23.1-2007, 32.1-69.3, 32.1-71.5, 32.1-71.6,*
 4 *38.2-5008, and 54.1-2961 of the Code of Virginia, relating to public institutions of higher education; Old*
 5 *Dominion University; Eastern Virginia Health Sciences Center renamed as Virginia Health Sciences.*

6 [S 91]

7 Approved

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

9 **1. That §§ 2.2-3106, 2.2-3705.4, 2.2-3711, as it is currently effective and as it shall become effective,**
 10 **22.1-209.2, 23.1-2002, 23.1-2006, 23.1-2007, 32.1-69.3, 32.1-71.5, 32.1-71.6, 38.2-5008, and 54.1-2961 of**
 11 **the Code of Virginia are amended and reenacted as follows:**

12 **§ 2.2-3106. Prohibited contracts by officers and employees of state government.**

13 A. No officer or employee of any governmental agency of state government shall have a personal interest
 14 in a contract with the governmental agency of which he is an officer or employee, other than his own contract
 15 of employment.

16 B. No officer or employee of any governmental agency of state government shall have a personal interest
 17 in a contract with any other governmental agency of state government unless such contract is (i) awarded as a
 18 result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or
 19 (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that
 20 competitive bidding or negotiation is contrary to the best interest of the public.

21 C. The provisions of this section shall not apply to:

22 1. An employee's personal interest in additional contracts of employment with his own governmental
 23 agency that accrue to him because of a member of his immediate family, provided that the employee does not
 24 exercise any control over the employment or the employment activities of the member of his immediate
 25 family and the employee is not in a position to influence those activities;

26 2. The personal interest of an officer or employee of a public institution of higher education in additional
 27 contracts of employment with his own governmental agency that accrue to him because of a member of his
 28 immediate family, provided that (i) the officer or employee and the immediate family member are engaged in
 29 teaching, research, or administrative support positions at the educational institution; (ii) the governing board
 30 of the educational institution finds that it is in the best interests of the institution and the Commonwealth for
 31 such dual employment to exist; and (iii) after such finding, the governing board of the educational institution
 32 ensures that the officer or employee, or the immediate family member, does not have sole authority to
 33 supervise, evaluate, or make personnel decisions regarding the other;

34 3. An officer's or employee's personal interest in a contract of employment with any other governmental
 35 agency of state government;

36 4. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the
 37 general public;

38 5. An employee's personal interest in a contract between a public institution of higher education in the
 39 Commonwealth and a publisher or wholesaler of textbooks or other educational materials for students, which
 40 accrues to him solely because he has authored or otherwise created such textbooks or materials;

41 6. An employee's personal interest in a contract with his or her employing public institution of higher
 42 education to acquire the collections or scholarly works owned by the employee, including manuscripts,
 43 musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or
 44 cultural value to the institution, provided that the president of the institution approves the acquisition of such
 45 collections or scholarly works as being in the best interests of the institution's public mission of service,
 46 research, or education;

47 7. Subject to approval by the board of visitors, an employee's personal interest in a contract between a
 48 public institution of higher education in the Commonwealth that operates a school of medicine or dentistry
 49 and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of
 50 higher education and of which such employee is a member or employee;

51 8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for
 52 research and development or commercialization of intellectual property between a public institution of higher
 53 education in the Commonwealth and a business in which the employee has a personal interest, if (i) the
 54 employee's personal interest has been disclosed to and approved by such public institution of higher
 55 education prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure
 56 statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before February 1; (iii) the

57 institution has established a formal policy regarding such contracts, approved by the State Council of Higher
 58 Education for Virginia; and (iv) no later than December 31 of each year, the institution files an annual report
 59 with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision,
 60 the names of the parties to each contract, the date each contract was executed and its term, the subject of each
 61 contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for
 62 administering each contract, the details of the institution's commitment or investment of resources or finances
 63 for each contract, and any other information requested by the Secretary of the Commonwealth; or

64 9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract
 65 between a public institution of higher education in the Commonwealth and a business in which the employee
 66 has a personal interest, if (i) the personal interest has been disclosed to the institution prior to the time the
 67 contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter
 68 annually on or before February 1; (iii) the employee does not participate in the institution's decision to
 69 contract; (iv) the president of the institution finds and certifies in writing that the contract is for goods and
 70 services needed for quality patient care, including related medical education or research, by the institution's
 71 medical center, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its
 72 mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than
 73 December 31 of each year, the institution files an annual report with the Secretary of the Commonwealth
 74 disclosing each open contract entered subject to this provision, the names of the parties to each contract, the
 75 date each contract was executed and its term, the subject of each contractual arrangement, the nature of the
 76 conflict of interest, the institution's employee responsible for administering each contract, the details of the
 77 institution's commitment or investment of resources or finances for each contract, and any other information
 78 requested by the Secretary of the Commonwealth.

79 D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or
 80 commercialization of intellectual property or the employee's personal interest in a contract with a business is
 81 subject to policies and regulations governing conflicts of interest promulgated by any agency of the United
 82 States government, including the adoption of policies requiring the disclosure and management of such
 83 conflicts of interests, the policies established by ~~the Eastern Virginia Health Sciences Center~~ at Old
 84 Dominion University pursuant to such federal requirements shall constitute compliance with subdivisions C 8
 85 and C 9, upon notification by ~~the Eastern Virginia Health Sciences Center~~ at Old Dominion University to the
 86 Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal
 87 policies and regulations.

88 E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the
 89 institution. If the board elects to delegate such authority, the board shall include this delegation of authority in
 90 the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated
 91 such authority, on or before December 1 of each year, the president of the relevant institution shall file a
 92 report with the relevant board of visitors disclosing each open contract entered into subject to this provision,
 93 the names of the parties to each contract, the date each contract was executed and its term, the subject of each
 94 contractual arrangement, the nature of the conflict of interest, the institution's employee responsible for
 95 administering each contract, the details of the institution's commitment or investment of resources or finances
 96 for each contract, the details of how revenues are to be disbursed, and any other information requested by the
 97 board of visitors.

98 **§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of**
 99 **educational institutions.**

100 A. The following information contained in a public record is excluded from the mandatory disclosure
 101 provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in
 102 subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded
 103 under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

104 1. Scholastic records containing information concerning identifiable individuals, except that such access
 105 shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student.
 106 However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of
 107 instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are
 108 in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a
 109 substitute.

110 The parent or legal guardian of a student may prohibit, by written request, the release of any individual
 111 information regarding that student until the student reaches the age of 18 years. For scholastic records of
 112 students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent,
 113 including a noncustodial parent, unless such parent's parental rights have been terminated or a court of
 114 competent jurisdiction has restricted or denied such access. For scholastic records of students who are
 115 emancipated or attending a public institution of higher education in the Commonwealth, the right of access
 116 may be asserted by the student.

117 Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in
 118 writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be

119 disclosed.

120 2. Confidential letters and statements of recommendation placed in the records of educational agencies or
121 institutions respecting (i) admission to any educational agency or institution, (ii) an application for
122 employment or promotion, or (iii) receipt of an honor or honorary recognition.

123 3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal
124 personally identifiable information, including scholarship applications, personal financial information, and
125 confidential correspondence and letters of recommendation.

126 4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions
127 of higher education, other than the institutions' financial or administrative records, in the conduct of or as a
128 result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the
129 institution alone or in conjunction with a governmental body or a private concern, where such information
130 has not been publicly released, published, copyrighted or patented.

131 5. Information held by the University of Virginia, the University of Virginia Medical Center, Old
132 Dominion University, or ~~the Eastern Virginia Health Sciences Center~~ at Old Dominion University, as the case
133 may be, that contain proprietary, business-related information pertaining to the operations of the University
134 of Virginia Medical Center or ~~the Eastern Virginia Health Sciences Center~~ at Old Dominion University, as
135 the case may be, including business development or marketing strategies and activities with existing or future
136 joint venturers, partners, or other parties with whom the University of Virginia Medical Center or ~~the Eastern~~
137 Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any
138 arrangement for the delivery of health care, if disclosure of such information would be harmful to the
139 competitive position of the University of Virginia Medical Center or ~~Eastern Virginia Health Sciences Center~~
140 at Old Dominion University, as the case may be.

141 6. Personal information, as defined in § 2.2-3801, provided to the Board of the Commonwealth Savers
142 Plan or its employees by or on behalf of individuals who have requested information about, applied for, or
143 entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et
144 seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined
145 in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be
146 construed to prevent disclosure or publication of information in a statistical or other form that does not
147 identify individuals or provide personal information. Individuals shall be provided access to their own
148 personal information.

149 For purposes of this subdivision:

150 "Authorized individual" means an individual who may be named by the account owner to receive
151 information regarding the account but who does not have any control or authority over the account.

152 "Designated survivor" means the person who will assume account ownership in the event of the account
153 owner's death.

154 7. Information maintained in connection with fundraising activities by or for a public institution of higher
155 education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective
156 donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information;
157 employment, familial, or marital status information; electronic mail addresses, facsimile or telephone
158 numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion
159 provided by this subdivision shall not apply to protect from disclosure (a) information relating to the amount,
160 date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors
161 providing grants to or contracting with the institution for the performance of research services or other work
162 or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor
163 may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a
164 pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic
165 decision-making.

166 8. Information held by a threat assessment team established by a local school board pursuant to
167 § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or
168 intervention with a specific individual. However, in the event an individual who has been under assessment
169 commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious
170 bodily injury, including any felony sexual assault, to another person, such information of the threat
171 assessment team concerning the individual under assessment shall be made available as provided by this
172 chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1,
173 health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The
174 public body providing such information shall remove personally identifying information of any person who
175 provided information to the threat assessment team under a promise of confidentiality.

176 9. Records provided to the Governor or the designated reviewers by a qualified institution, as those terms
177 are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to
178 a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A
179 memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure
180 after it is agreed to and signed by the Governor.

181 B. The custodian of a scholastic record shall not release the address, phone number, or email address of a
 182 student in response to a request made under this chapter without written consent. For any student who is (i)
 183 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher
 184 education, written consent of the student shall be required. For any other student, written consent of the
 185 parent or legal guardian of such student shall be required.

186 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

187 A. Public bodies may hold closed meetings only for the following purposes:

188 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 189 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 190 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 191 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
 192 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
 193 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
 194 student and the student involved in the matter is present, provided that the teacher makes a written request to
 195 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
 196 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
 197 compensation matters that affect the membership of such body or board collectively.

198 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 199 involve the disclosure of information contained in a scholastic record concerning any student of any public
 200 institution of higher education in the Commonwealth or any state school system. However, any such student,
 201 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be
 202 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,
 203 parents, or guardians so request in writing and such request is submitted to the presiding officer of the
 204 appropriate board.

205 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition
 206 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining
 207 position or negotiating strategy of the public body.

208 4. The protection of the privacy of individuals in personal matters not related to public business.

209 5. Discussion concerning a prospective business or industry or the expansion of an existing business or
 210 industry where no previous announcement has been made of the business' or industry's interest in locating or
 211 expanding its facilities in the community.

212 6. Discussion or consideration of the investment of public funds where competition or bargaining is
 213 involved, where, if made public initially, the financial interest of the governmental unit would be adversely
 214 affected.

215 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or
 216 probable litigation, where such consultation or briefing in open meeting would adversely affect the
 217 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"
 218 means litigation that has been specifically threatened or on which the public body or its legal counsel has a
 219 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall
 220 be construed to permit the closure of a meeting merely because an attorney representing the public body is in
 221 attendance or is consulted on a matter.

222 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
 223 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
 224 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
 225 consulted on a matter.

226 9. Discussion or consideration by governing boards of public institutions of higher education of matters
 227 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
 228 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
 229 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
 230 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
 231 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
 232 means any government other than the United States government or the government of a state or a political
 233 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
 234 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
 235 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
 236 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
 237 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
 238 or protectorate thereof.

239 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
 240 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
 241 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private

242 sources.

243 11. Discussion or consideration of honorary degrees or special awards.

244 12. Discussion or consideration of tests, examinations, or other information used, administered, or
245 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

246 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
247 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
248 by the member, provided that the member may request in writing that the committee meeting not be
249 conducted in a closed meeting.

250 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
251 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
252 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
253 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
254 All discussions with the applicant or its representatives may be conducted in a closed meeting.

255 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
256 activity and estimating general and nongeneral fund revenues.

257 16. Discussion or consideration of medical and mental health records subject to the exclusion in
258 subdivision 1 of § 2.2-3705.5.

259 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
260 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
261 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
262 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and
263 subdivision 11 of § 2.2-3705.7.

264 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
265 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
266 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
267 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
268 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

269 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
270 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
271 service officials concerning actions taken to respond to such matters or a related threat to public safety;
272 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
273 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
274 information technology system, or software program; or discussion of reports or plans related to the security
275 of any governmental facility, building or structure, or the safety of persons using such facility, building or
276 structure.

277 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
278 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
279 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
280 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
281 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
282 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
283 other ownership interest in an entity, where such security or ownership interest is not traded on a
284 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
285 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
286 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
287 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
288 confidentiality, of the future value of such ownership interest or the future financial performance of the
289 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
290 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
291 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
292 disclosure of information relating to the identity of any investment held, the amount invested or the present
293 value of such investment.

294 21. Those portions of meetings in which individual child death cases are discussed by the State Child
295 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
296 child death cases are discussed by a regional or local child fatality review team established pursuant to
297 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
298 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
299 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
300 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
301 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
302 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
303 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality

304 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
305 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review
306 Committee established pursuant to § 37.2-314.1.

307 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
308 University, as the case may be, and those portions of meetings of any persons to whom management
309 responsibilities for the University of Virginia Medical Center or ~~the Eastern Virginia Health Sciences Center~~
310 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
311 business-related information pertaining to the operations of the University of Virginia Medical Center or ~~the~~
312 ~~Eastern~~ Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
313 development or marketing strategies and activities with existing or future joint venturers, partners, or other
314 parties with whom the University of Virginia Medical Center or ~~the Eastern~~ Virginia Health Sciences Center
315 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
316 health care, if disclosure of such information would adversely affect the competitive position of the
317 University of Virginia Medical Center or ~~the Eastern~~ Virginia Health Sciences Center at Old Dominion
318 University, as the case may be.

319 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
320 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
321 disposition by the Authority of real property, equipment, or technology software or hardware and related
322 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
323 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
324 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
325 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
326 the Authority; and members of the Authority's medical and teaching staffs and qualifications for
327 appointments thereto.

328 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
329 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
330 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

331 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal
332 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
333 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
334 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

335 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
336 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
337 § 56-484.12, related to the provision of wireless E-911 service.

338 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
339 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
340 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or
341 meetings of health regulatory boards or conference committees of such boards to consider settlement
342 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by
343 either of the parties.

344 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
345 by a responsible public entity or an affected locality or public entity, as those terms are defined in
346 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
347 public entity concerning such records.

348 29. Discussion of the award of a public contract involving the expenditure of public funds, including
349 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in
350 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

351 30. Discussion or consideration of grant or loan application information subject to the exclusion in
352 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

353 31. Discussion or consideration by the Commitment Review Committee of information subject to the
354 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
355 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

356 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
357 held by a local public body providing certain telecommunication services or cable television services and
358 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
359 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

360 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
361 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
362 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

363 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
364 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

365 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee

- 366 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.
 367 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
 368 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
 369 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
 370 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
 371 scholarship awards.
 372 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
 373 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
 374 Authority.
 375 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
 376 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
 377 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
 378 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee
 379 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.
 380 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
 381 related to economic development.
 382 40. Discussion or consideration by the Board of Education of information relating to the denial,
 383 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.
 384 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
 385 executive order for the purpose of studying and making recommendations regarding preventing closure or
 386 realignment of federal military and national security installations and facilities located in Virginia and
 387 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
 388 local governing body, during which there is discussion of information subject to the exclusion in subdivision
 389 8 of § 2.2-3705.2.
 390 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
 391 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
 392 information of donors.
 393 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
 394 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
 395 in grant applications.
 396 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
 397 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
 398 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
 399 information of a private entity provided to the Authority.
 400 45. Discussion or consideration of personal and proprietary information related to the resource
 401 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
 402 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
 403 information that has been certified for release by the person who is the subject of the information or
 404 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
 405 or is the subject of, the information.
 406 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
 407 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
 408 applicants for licenses and permits and of licensees and permittees.
 409 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
 410 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
 411 of Chapter 22.
 412 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
 413 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
 414 Board.
 415 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
 416 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
 417 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
 418 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
 419 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
 420 pursuant to § 15.2-1627.6.
 421 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 422 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
 423 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
 424 of § 2.2-3705.7.
 425 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
 426 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
 427 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the

428 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

429 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
430 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
431 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

432 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
433 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
434 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
435 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

436 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
437 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
438 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
439 disclosure under subdivision 1 of § 2.2-3705.3.

440 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
441 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

442 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
443 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
444 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
445 shall have its substance reasonably identified in the open meeting.

446 C. Public officers improperly selected due to the failure of the public body to comply with the other
447 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
448 obtain notice of the legal defect in their election.

449 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
450 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
451 holding closed meetings as are applicable to any other public body.

452 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
453 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
454 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
455 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
456 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
457 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
458 actual date of the board's authorization of the sale or issuance of such bonds.

459 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

460 A. Public bodies may hold closed meetings only for the following purposes:

461 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
462 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
463 officers, appointees, or employees of any public body; and evaluation of performance of departments or
464 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
465 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
466 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
467 student and the student involved in the matter is present, provided that the teacher makes a written request to
468 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
469 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
470 compensation matters that affect the membership of such body or board collectively.

471 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
472 involve the disclosure of information contained in a scholastic record concerning any student of any public
473 institution of higher education in the Commonwealth or any state school system. However, any such student,
474 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be
475 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,
476 parents, or guardians so request in writing and such request is submitted to the presiding officer of the
477 appropriate board.

478 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition
479 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining
480 position or negotiating strategy of the public body.

481 4. The protection of the privacy of individuals in personal matters not related to public business.

482 5. Discussion concerning a prospective business or industry or the expansion of an existing business or
483 industry where no previous announcement has been made of the business' or industry's interest in locating or
484 expanding its facilities in the community.

485 6. Discussion or consideration of the investment of public funds where competition or bargaining is
486 involved, where, if made public initially, the financial interest of the governmental unit would be adversely
487 affected.

488 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or
489 probable litigation, where such consultation or briefing in open meeting would adversely affect the

490 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"
 491 means litigation that has been specifically threatened or on which the public body or its legal counsel has a
 492 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall
 493 be construed to permit the closure of a meeting merely because an attorney representing the public body is in
 494 attendance or is consulted on a matter.

495 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
 496 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
 497 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
 498 consulted on a matter.

499 9. Discussion or consideration by governing boards of public institutions of higher education of matters
 500 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be
 501 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and
 502 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public
 503 institution of higher education in the Commonwealth shall be subject to public disclosure upon written
 504 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"
 505 means any government other than the United States government or the government of a state or a political
 506 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United
 507 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by
 508 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of
 509 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)
 510 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory
 511 or protectorate thereof.

512 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
 513 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and
 514 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
 515 sources.

516 11. Discussion or consideration of honorary degrees or special awards.

517 12. Discussion or consideration of tests, examinations, or other information used, administered, or
 518 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

519 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
 520 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed
 521 by the member, provided that the member may request in writing that the committee meeting not be
 522 conducted in a closed meeting.

523 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
 524 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
 525 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
 526 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
 527 All discussions with the applicant or its representatives may be conducted in a closed meeting.

528 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
 529 activity and estimating general and nongeneral fund revenues.

530 16. Discussion or consideration of medical and mental health records subject to the exclusion in
 531 subdivision 1 of § 2.2-3705.5.

532 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
 533 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
 534 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
 535 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and
 536 subdivision 11 of § 2.2-3705.7.

537 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
 538 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
 539 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
 540 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
 541 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

542 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
 543 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
 544 service officials concerning actions taken to respond to such matters or a related threat to public safety;
 545 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
 546 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
 547 information technology system, or software program; or discussion of reports or plans related to the security
 548 of any governmental facility, building or structure, or the safety of persons using such facility, building or
 549 structure.

550 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
 551 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of

552 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
553 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
554 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
555 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
556 other ownership interest in an entity, where such security or ownership interest is not traded on a
557 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
558 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
559 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
560 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
561 confidentiality, of the future value of such ownership interest or the future financial performance of the
562 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
563 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
564 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
565 disclosure of information relating to the identity of any investment held, the amount invested or the present
566 value of such investment.

567 21. Those portions of meetings in which individual child death cases are discussed by the State Child
568 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
569 child death cases are discussed by a regional or local child fatality review team established pursuant to
570 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
571 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
572 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
573 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
574 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
575 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
576 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
577 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of
578 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review
579 Committee established pursuant to § 37.2-314.1.

580 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
581 University, as the case may be, and those portions of meetings of any persons to whom management
582 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
583 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
584 business-related information pertaining to the operations of the University of Virginia Medical Center or the
585 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
586 development or marketing strategies and activities with existing or future joint venturers, partners, or other
587 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
588 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
589 health care, if disclosure of such information would adversely affect the competitive position of the
590 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
591 University, as the case may be.

592 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or
593 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
594 disposition by the Authority of real property, equipment, or technology software or hardware and related
595 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of
596 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and
597 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of
598 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of
599 the Authority; and members of the Authority's medical and teaching staffs and qualifications for
600 appointments thereto.

601 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the
602 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who
603 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

604 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal
605 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf
606 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or
607 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

608 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
609 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
610 § 56-484.12, related to the provision of wireless E-911 service.

611 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
612 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy
613 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or

614 meetings of health regulatory boards or conference committees of such boards to consider settlement
615 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by
616 either of the parties.

617 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
618 by a responsible public entity or an affected locality or public entity, as those terms are defined in
619 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
620 public entity concerning such records.

621 29. Discussion of the award of a public contract involving the expenditure of public funds, including
622 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in
623 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

624 30. Discussion or consideration of grant or loan application information subject to the exclusion in
625 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

626 31. Discussion or consideration by the Commitment Review Committee of information subject to the
627 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
628 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

629 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
630 held by a local public body providing certain telecommunication services or cable television services and
631 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
632 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

633 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
634 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
635 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

636 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
637 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections
638 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

639 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
640 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

641 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
642 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
643 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
644 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
645 scholarship awards.

646 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
647 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
648 Authority.

649 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
650 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
651 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
652 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee
653 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

654 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
655 related to economic development.

656 40. Discussion or consideration by the Board of Education of information relating to the denial,
657 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

658 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
659 executive order for the purpose of studying and making recommendations regarding preventing closure or
660 realignment of federal military and national security installations and facilities located in Virginia and
661 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
662 local governing body, during which there is discussion of information subject to the exclusion in subdivision
663 8 of § 2.2-3705.2.

664 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
665 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
666 information of donors.

667 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
668 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
669 in grant applications.

670 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
671 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
672 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
673 information of a private entity provided to the Authority.

674 45. Discussion or consideration of personal and proprietary information related to the resource
675 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection

676 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
 677 information that has been certified for release by the person who is the subject of the information or
 678 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
 679 or is the subject of, the information.

680 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
 681 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
 682 applicants for licenses and permits and of licensees and permittees.

683 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
 684 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
 685 of Chapter 22.

686 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
 687 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
 688 Board.

689 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
 690 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
 691 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
 692 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
 693 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
 694 pursuant to § 15.2-1627.6.

695 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 696 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
 697 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
 698 of § 2.2-3705.7.

699 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
 700 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
 701 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
 702 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

703 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
 704 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
 705 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

706 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
 707 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
 708 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
 709 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

710 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
 711 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
 712 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
 713 disclosure under subdivision 1 of § 2.2-3705.3.

714 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
 715 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

716 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
 717 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
 718 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
 719 shall have its substance reasonably identified in the open meeting.

720 C. Public officers improperly selected due to the failure of the public body to comply with the other
 721 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 722 obtain notice of the legal defect in their election.

723 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
 724 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
 725 holding closed meetings as are applicable to any other public body.

726 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
 727 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
 728 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
 729 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
 730 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
 731 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
 732 actual date of the board's authorization of the sale or issuance of such bonds.

733 **§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and**
 734 **state agencies and institutions.**

735 The Board shall prepare and supervise the implementation in regional detention homes and local detention
 736 homes a program designed to educate and train the children detained in the homes. In addition, the Board
 737 shall supervise those programs of evaluation, education, and training provided to school-age children by the

738 Department of Health, the Department of Behavioral Health and Developmental Services, the children's
 739 teaching hospital associated with the Eastern Virginia Health Sciences Center at Old Dominion University,
 740 the Virginia Commonwealth University Health System Authority, the children's teaching hospital associated
 741 with the Virginia Commonwealth University Health System Authority, and the University of Virginia
 742 Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

743 The Board shall promulgate such rules and regulations as may be necessary to conform these programs
 744 with the applicable federal and state laws and regulations including teacher/student ratios and special
 745 education requirements for children with disabilities. The education programs in the relevant detention homes
 746 and state agencies and institutions shall be approved by the Board, and the Board shall prepare a budget for
 747 these educational programs that shall be solely supported by such general funds as are appropriated by the
 748 General Assembly for this purpose. Teacher staffing ratios for regional or local detention homes shall be
 749 based on a ratio of one teacher for every 12 beds based on the capacity of the facility; however, if the
 750 previous year's average daily attendance exceeds this bed capacity, the ratio shall be based on the average
 751 daily attendance at the facility as calculated by the Department from the previous school year.

752 The Board shall enter into contracts with the relevant state agency or institution or detention facility or the
 753 local school divisions in which the state agencies or institutions or the regional detention homes and the
 754 relevant local detention homes are located for the hiring and supervision of teachers.

755 In any case in which the Board enters into a contract with the relevant state agency or institution, the
 756 Department of Human Resource Management shall establish salary schedules for the teachers that are
 757 competitive with those in effect for the school divisions in which the agency or institution is located.

758 **§ 23.1-2002. Meetings; officers; committees.**

759 A. The board shall meet at the University once a year and at such other times as it determines. Special
 760 meetings of the board may be called by the rector or any three members. The secretary shall provide notice of
 761 any special meeting to each member.

762 B. A majority of members shall constitute a quorum.

763 C. In every even-numbered year, the board shall elect from its membership a rector to preside at its
 764 meetings, a vice-rector to preside at its meetings in the absence of the rector, and a secretary to preside at its
 765 meetings in the absence of the rector and vice-rector. Such officers shall assume their duties on July 1 of such
 766 year.

767 D. The board may appoint a pro tempore officer to preside at its meetings in the absence of the rector,
 768 vice-rector, and secretary.

769 E. Vacancies in the offices of rector, vice-rector, and secretary may be filled by the board for the
 770 unexpired term.

771 F. At every regular annual meeting of the board, an executive committee for the transaction of business in
 772 the recess of the board may be appointed, consisting of at least five members. The executive committee shall
 773 consist of the officers of the board and such other members as the rector may appoint.

774 G. The board shall have a standing committee to serve as the board of directors of the Eastern Virginia
 775 Health Sciences Center at the University, which shall oversee the Eastern Virginia Health Sciences Center at
 776 the University and exercise such decision-making authority over the Eastern Virginia Health Sciences Center
 777 at the University as the standing committee deems necessary or appropriate under the authority of and in
 778 accordance with the bylaws of the board. The standing committee shall oversee financial management of the
 779 Eastern Virginia Health Sciences Center at the University and approve and recommend to the board the
 780 budget for the Eastern Virginia Health Sciences Center at the University. The standing committee shall
 781 consist of no more than 17 members, consisting of two ex officio members and no more than 15 appointed
 782 members who are appointed as follows: two nonlegislative citizen members appointed by the Governor; one
 783 nonlegislative citizen member appointed by the Senate Committee on Rules; one nonlegislative citizen
 784 member appointed by the Speaker of the House of Delegates; four members of the board appointed by the
 785 rector of the board; and no more than seven nonlegislative citizen members appointed by the Eastern Virginia
 786 Medical School Foundation or any successor foundation. The president of the University and the executive
 787 vice president for health sciences at the University shall serve as ex officio nonvoting members of the
 788 standing committee. The primary teaching hospital affiliated with the University may submit to the Governor
 789 a list of at least three nominees for any vacancy on the standing committee that is to be filled by the
 790 Governor. Any such nominee shall be an expert in a relevant sector of the health care industry and shall have
 791 no business or financial relationship with the primary teaching hospital affiliated with the University in order
 792 to be considered for appointment as a member of the standing committee by the Governor. In support of good
 793 long-term governance, the members appointed to the standing committee by the Eastern Virginia Medical
 794 School Foundation or any successor foundation shall file, as a condition to assuming office, a disclosure
 795 statement of their personal interests and such other information as is required on the form prescribed by the
 796 Virginia Conflict of Interest and Ethics Advisory Council pursuant to § 2.2-3117 and thereafter shall file such
 797 a statement annually on or before February 1.

798 H. The standing committee shall meet four times per year and at such other times as it determines.

799 I. After the initial staggering of terms, members of the standing committee shall be appointed for a term of

800 four years.

801 **§ 23.1-2006. Virginia Health Sciences at the University.**

802 The schools and divisions previously existing as Eastern Virginia Medical School and such other
803 academic units of the University related to the health sciences as may be identified by the board are hereby
804 designated as ~~the Eastern Virginia Health Sciences Center~~ at the University.

805 **§ 23.1-2007. Operations of Virginia Health Sciences at the University.**

806 A. The University may provide medical and health sciences education and related research through
807 teaching hospitals and related health care and health maintenance facilities, collectively referred to in this
808 section as ~~the Eastern Virginia Health Sciences Center~~ at the University ~~or the Health Sciences Center~~. ~~The~~
809 ~~Eastern Virginia Health Sciences Center~~ at the University may participate in cooperative arrangements
810 reflective of changes in health care delivery.

811 B. The University shall ensure that all tuition, funds appropriated, and clinical-affiliated financial support
812 for the continued operation of the schools and divisions previously existing as the Eastern Virginia Medical
813 School shall remain with those schools and divisions for their continued operation. Such funds shall remain
814 separate from funds for the other academic units identified by the board to be part of ~~the Eastern Virginia~~
815 ~~Health Sciences Center~~ at the University.

816 C. The University may create, own in whole or in part, or otherwise control corporations, partnerships,
817 insurers, or other entities whose activities promote the operations of ~~the Virginia Health Sciences Center at~~
818 ~~the University~~ and its mission, cooperate or enter into joint ventures with such entities, and enter into
819 contracts in connection with such joint ventures.

820 **§ 32.1-69.3. Virginia Cord Blood Bank Initiative established.**

821 A. There is hereby established the Virginia Cord Blood Bank Initiative (the Initiative) as a public resource
822 for the treatment of patients with life-threatening diseases or debilitating conditions, for use in advancing
823 basic and clinical research, and, in the event of a terrorist attack, to be used in the treatment of the injured.

824 The Initiative shall be established as a nonprofit legal entity to collect, screen for infectious and genetic
825 diseases, perform tissue typing on, cryopreserve, and store umbilical cord blood as a public resource and shall
826 be formed as a collaborative consortium that covers all geographical regions of Virginia.

827 B. The State Health Commissioner shall develop or shall arrange for or contract with a nonprofit entity for
828 the development of the collaborative consortium to be known as the Initiative, which may consist of any
829 entity having the expertise or experience or willingness to develop the expertise or experience necessary to
830 participate in the Initiative.

831 C. In developing the consortium, the Commissioner shall ensure that all geographical areas of the
832 Commonwealth are included in the Initiative. To accomplish this goal, the Commissioner shall contact
833 ~~Eastern Virginia Health Sciences Center~~ at Old Dominion University and its participating hospitals, Virginia
834 Commonwealth University School of Medicine, Virginia Commonwealth University Health System, the
835 University of Virginia School of Medicine, the University of Virginia Health System, and other entities
836 located in Virginia, such as hospitals and hospital systems, biotechnology companies, regional blood banks,
837 laboratories, or other health care providers or medical researchers, or local coalitions of health care providers
838 that could provide coverage of the various geographical regions of Virginia, to request their participation in
839 the Initiative consortium and assist in the design and implementation of the Initiative.

840 D. Any nonprofit entity having an arrangement or contract with the Commissioner for the development of
841 the Initiative and any medical school, hospital, or other health care provider choosing to participate in the
842 Initiative shall submit an estimate of the costs of implementing the Initiative for the region in which it is
843 located. The Commissioner shall assist in the development of the cost estimates, compare and evaluate such
844 estimates, and negotiate with the various entities to implement the Initiative.

845 Further, the Commissioner shall coordinate (i) appropriate contact with pregnant women to provide
846 information about umbilical cord blood donations; (ii) the development of procedures for obtaining informed
847 consent for cord blood donations; (iii) the design of the Initiative, including the period of years for storage of
848 the cord blood to ensure the integrity of the cells; (iv) a system for recycling the blood at the end of the
849 established storage period that provides for the sale or transfer of the cord blood samples being taken out of
850 storage to be used in basic or clinical research development at reasonable rates and fees for cord blood
851 products.

852 E. The entities joining the Initiative shall work collaboratively, each with the community resources in its
853 local or regional area. The Initiative participants shall align their outreach programs and activities to all
854 geographic areas and ethnic and racial groups of the Commonwealth, and shall conduct specific and
855 culturally appropriate outreach and research to identify potential donors among all ethnic and racial groups.

856 F. The Commissioner shall disseminate information about the Initiative, focusing on hospitals, birthing
857 facilities, physicians, midwives, and nurses, and providing information through local health departments.

858 Initiative consortium participants shall also be encouraged to disseminate information about the Initiative.

859 In addition, the Director of the Department of Medical Assistance Services shall include information
860 about the Initiative in printed materials distributed by the Department to recipients of medical assistance
861 services and persons enrolled in the Family Access to Medical Insurance Security Plan.

862 G. Any woman admitted to a hospital or birthing facility for obstetrical services may be offered the
863 opportunity to donate umbilical cord blood to the Initiative. However, no woman shall be required to make a
864 cord blood donation.

865 H. Any health care facility or health care provider receiving financial remuneration for the collection of
866 umbilical cord blood shall, prior to harvesting the umbilical cord blood, disclose this information in writing to
867 any woman postpartum or to the parent of a newborn from whom the umbilical cord blood is to be collected.

868 I. This section shall not be construed to require participation in the Initiative on the part of any health care
869 facility or health care provider who objects to transfusion or transplantation of blood on the basis of bona fide
870 religious beliefs.

871 J. The Initiative shall be implemented with such funds as may be appropriated or otherwise provided for
872 its purpose. Upon implementation, the Commissioner shall initiate the development of a nonprofit entity to
873 assume the operation and administration of the Initiative and may seek federal, state, and private grant funds
874 for its continuation.

875 **§ 32.1-71.5. Research and Clinical Trial Cancer Consortium Initiative; purpose.**

876 A. As used in this article, "Initiative" means the Research and Clinical Trial Cancer Consortium Initiative
877 established pursuant to this article.

878 B. The Research and Clinical Trial Cancer Consortium Initiative is hereby established as an independent
879 nonprofit entity in the Commonwealth for the purpose of coordinating, maximizing the efficiency of, and
880 facilitating cancer clinical research and treatment efforts across the Commonwealth. The Initiative shall
881 include the Massey Comprehensive Cancer Center at Virginia Commonwealth University, the University of
882 Virginia Medical Center, the Leroy T. Canoles Jr. Cancer Research Center at the Eastern Virginia Health
883 Sciences Center at Old Dominion University, the Fralin Biomedical Research Institute at Virginia Tech
884 Carilion, Hampton University, and three nonacademic health systems.

885 **§ 32.1-71.6. Membership; powers and duties of the Initiative; report.**

886 A. The Initiative shall have a total membership of twelve members that shall consist of eight
887 representatives of health or medical institutions with expertise in cancer clinical research and treatment, three
888 nonlegislative citizen members with expertise in cancer clinical research and treatment or philanthropic
889 support of cancer clinical research and treatment, and one ex officio member. The representatives of health or
890 medical institutions with expertise in cancer clinical research and treatment shall be appointed by the
891 Commissioner as follows: one representative each from (i) the Massey Comprehensive Cancer Center at
892 Virginia Commonwealth University, (ii) the University of Virginia Medical Center, (iii) the Leroy T. Canoles
893 Jr. Cancer Research Center at the Eastern Virginia Health Sciences Center at Old Dominion University, (iv)
894 the Fralin Biomedical Research Institute at Virginia Tech Carilion, (v) Hampton University, and (vi) three
895 nonacademic health systems. The nonlegislative citizen members shall be appointed as follows: three
896 members with expertise in cancer clinical research and treatment or philanthropic support of cancer clinical
897 research and treatment, one of whom shall be appointed by the Senate Committee on Rules, one of whom
898 shall be appointed by the Speaker of the House of Delegates, and one of whom shall be appointed by the
899 Governor, subject to confirmation by the General Assembly. The Secretary of Health and Human Resources
900 shall serve ex officio with voting privileges. Appointments to fill vacancies, other than by expiration of a
901 term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original
902 appointments. All members may be reappointed. After the initial staggering of terms, nonlegislative citizen
903 members shall be appointed for a term of four years. No nonlegislative citizen member shall serve more than
904 two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy
905 shall not constitute a term in determining the member's eligibility for reappointment.

906 B. The Initiative shall elect a chairman from among its membership, provided, however, that no
907 institutional representative appointed as a member shall be eligible to serve as chairman of the Initiative. A
908 majority of the members shall constitute a quorum. Members shall serve without compensation but shall be
909 reimbursed for actual expenses incurred in the performance of their duties.

910 C. The Initiative shall have the power and duty to:

911 1. Develop and provide coordinated financial incentives to the medical and health institutions focused on
912 cancer clinical research and treatment in the Commonwealth to (i) collaborate on clinical trials in the areas
913 with the most significant demonstrated need; (ii) leverage existing resources; (iii) incentivize the
914 development of intellectual property research and associated patents relating to cancer clinical research and
915 treatment created within the Commonwealth; (iv) combine clinical enrollment participant populations to
916 increase efficiency and maximize the receipt of available federal funding; and (v) develop and implement
917 plans and procedures for minimizing duplicative research efforts across institutions in the Initiative;

918 2. Take such actions as deemed necessary and appropriate to further the Initiative's purpose of
919 coordinating, maximizing the efficiency of, and facilitating cancer clinical research and treatment efforts
920 across the Commonwealth, including (i) developing and implementing plans designed to expand outreach and
921 improve efforts to attract highly qualified individuals with expertise in cancer clinical research and treatment
922 to the Commonwealth and (ii) developing policies and model contracts to streamline and facilitate the
923 assignment and sharing of intellectual property research and foster the utilization of information, discoveries,

924 data, and material produced or performed by institutions in the Initiative; and

925 3. Submit an annual report to the Governor and the General Assembly for publication as a report
 926 document as provided in the procedures of the Division of Legislative Automated Systems for the processing
 927 of legislative documents and reports. The chairman of the Initiative shall submit to the Governor and the
 928 General Assembly an annual executive summary of the activity and work of the Initiative for the immediately
 929 preceding year no later than the first day of each regular session of the General Assembly. The executive
 930 summary shall be submitted for publication as a report document as provided in the procedures of the
 931 Division of Legislative Automated Systems for the processing of legislative documents and reports and shall
 932 be posted on the General Assembly's website.

933 **§ 38.2-5008. Determination of claims; presumption; finding of Virginia Workers' Compensation**
 934 **Commission binding on participants; medical advisory panel.**

935 A. The Commission shall determine, on the basis of the evidence presented to it, the following issues:

936 1. Whether the injury claimed is a birth-related neurological injury as defined in § 38.2-5001.

937 a. A rebuttable presumption shall arise that the injury alleged is a birth-related neurological injury where it
 938 has been demonstrated, to the satisfaction of the Virginia Workers' Compensation Commission, that the
 939 infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury, and that
 940 the infant was thereby rendered permanently motorically disabled and (i) developmentally disabled or (ii) for
 941 infants sufficiently developed to be cognitively evaluated, cognitively disabled.

942 If either party disagrees with such presumption, that party shall have the burden of proving that the
 943 injuries alleged are not birth-related neurological injuries within the meaning of the chapter.

944 b. A rebuttable presumption of fetal distress, an element of a birth-related injury, shall arise if the hospital
 945 fails to provide the fetal heart monitor tape to the claimant, as required by subsection E of § 38.2-5004.

946 2. Whether obstetrical services were delivered by a participating physician at the birth.

947 3. Whether the birth occurred in a participating hospital.

948 4. How much compensation, if any, is awardable pursuant to § 38.2-5009.

949 5. If the Commission determines (i) that the injury alleged is not a birth-related neurological injury as
 950 defined in § 38.2-5001, or (ii) that obstetrical services were not delivered by a participating physician at the
 951 birth and that the birth did not occur in a participating hospital, it shall dismiss the petition and cause a copy
 952 of its order of dismissal to be sent immediately to the parties by registered or certified mail.

953 6. All parties are bound for all purposes including any suit at law against a participating physician or
 954 participating hospital, by the finding of the Virginia Workers' Compensation Commission (or any appeal
 955 therefrom) with respect to whether such injury is a birth-related neurological injury.

956 B. The deans of the schools of medicine of ~~the Eastern~~ Virginia Health Sciences Center at Old Dominion
 957 University, University of Virginia School of Medicine, and Medical College of Virginia of Virginia
 958 Commonwealth University shall develop a plan whereby each claim filed with the Commission is reviewed
 959 by a panel of three qualified and impartial physicians drawn from the fields of obstetrics, pediatrics, pediatric
 960 neurology, neonatology, physical medicine and rehabilitation, or any other specialty particularly appropriate
 961 to the facts of a particular case. Such plan shall provide that each of the three aforementioned medical schools
 962 shall maintain a review panel of physicians to review claims, with responsibility for reviewing claims rotating
 963 among each medical school's panel on a case-by-case basis. The chair of the panel shall be determined by the
 964 school's dean. In no event shall the panel contain more than one panel member from the field of obstetrics.
 965 The Commission shall direct the Program to pay to the medical school that performed the assessment and
 966 prepared a report in conformity with this provision the sum of \$3,000 per claim reviewed.

967 C. The panel created pursuant to subsection B shall prepare a report that provides a detailed statement of
 968 the opinion of the panel's members regarding whether the infant's injury does or does not satisfy each of the
 969 criteria of a birth-related neurological injury enumerated in such term's definition in § 38.2-5001. The report
 970 shall include the panel's basis for its determination of whether each such criteria was or was not satisfied. In
 971 addition, the report shall include such supporting documentation as the board of directors of the program may
 972 reasonably request. The panel shall file its report with the Commission 60 days from the date the petition was
 973 filed with the Commission. At the same time that the panel files its report with the Commission, the panel
 974 shall send copies thereof to the Program and all parties in the proceeding. At the request of the Commission,
 975 at least one member of the panel shall be available to testify at the hearing. The Commission shall consider,
 976 but shall not be bound by, the recommendation of the panel.

977 **§ 54.1-2961. Interns and residents in hospitals.**

978 A. Interns and residents holding temporary licenses may be employed in a legally established and licensed
 979 hospital, medical school or other organization operating an approved graduate medical education program
 980 when their practice is confined to persons who are bona fide patients within the hospital or other organization
 981 or who receive treatment and advice in an outpatient department of the hospital or an institution affiliated
 982 with the graduate medical education program.

983 B. Such intern or resident shall be responsible and accountable at all times to a licensed member of the
 984 staff. The training of interns and residents shall be consistent with the requirements of the agencies cited in
 985 subsection D and the policies and procedures of the hospital, medical school or other organization operating a

986 graduate medical education program. No intern or resident holding a temporary license may be employed by
987 any hospital or other organization operating an approved graduate medical education program unless he has
988 completed successfully the preliminary academic education required for admission to examinations given by
989 the Board in his particular field of practice.

990 C. No intern or resident holding a temporary license shall serve in any hospital or other organization
991 operating an approved graduate medical education program in this Commonwealth for longer than the time
992 prescribed by the graduate medical education program. The Board may prescribe regulations not in conflict
993 with existing law and require such reports from hospitals or other organizations in the Commonwealth as may
994 be necessary to carry out the provisions of this section.

995 D. Such employment shall be a part of an internship or residency training program approved by the
996 Accreditation Council for Graduate Medical Education or American Osteopathic Association or American
997 Podiatric Medical Association or Council on Chiropractic Education. No unlicensed intern or resident may be
998 employed as an intern or resident by any hospital or other organization operating an approved graduate
999 medical education program. The Board may determine the extent and scope of the duties and professional
1000 services which may be rendered by interns and residents.

1001 E. The Board of Medicine shall adopt guidelines concerning the ethical practice of physicians practicing
1002 in emergency rooms, surgeons, and interns and residents practicing in hospitals, particularly hospital
1003 emergency rooms, or other organizations operating graduate medical education programs. These guidelines
1004 shall not be construed to be or to establish standards of care or to be regulations and shall be exempt from the
1005 requirements of the Administrative Process Act (§ 2.2-4000 et seq.). The Medical College of Virginia of
1006 Virginia Commonwealth University, the University of Virginia School of Medicine, the Eastern Virginia
1007 Health Sciences Center at Old Dominion University, the Medical Society of Virginia, and the Virginia
1008 Hospital and Health Care Association shall cooperate with the Board in the development of these guidelines.

1009 The guidelines shall include, but need not be limited to (i) the obtaining of informed consent from all
1010 patients or from the next of kin or legally authorized representative, to the extent practical under the
1011 circumstances in which medical care is being rendered, when the patient is incapable of making an informed
1012 decision, after such patients or other persons have been informed as to which physicians, residents, or interns
1013 will perform the surgery or other invasive procedure; (ii) except in emergencies and other unavoidable
1014 situations, the need, consistent with the informed consent, for an attending physician to be present during the
1015 surgery or other invasive procedure; (iii) policies to avoid situations, unless the circumstances fall within an
1016 exception in the Board's guidelines or the policies of the relevant hospital, medical school, or other
1017 organization operating the graduate medical education program, in which a surgeon, intern, or resident
1018 represents that he will perform a surgery or other invasive procedure that he then fails to perform; and (iv)
1019 policies addressing informed consent and the ethics of appropriate care of patients in emergency rooms. Such
1020 policies shall take into consideration the nonbinding ban developed by the American Medical Association in
1021 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal
1022 representative to extent practical under the circumstances in which medical care is being rendered.

1023 F. The Board shall publish and distribute the guidelines required by subsection E to its licensees.