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HOUSE BILL NO. 1188

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact §§ 2.2-4006, 15.2-5386, 23.1-2412, 32.1-3, 32.1-23.5, 32.1-102.1:1, 32.1-102.1:3, 32.1-122.05, 32.1-122.10:001, 32.1-125.3, 32.1-126.1, 32.1-126.3, 32.1-162.1, 32.1-276.5, 54.1-2400.6, and 54.1-2937.1 of the Code of Virginia and to repeal Article 1.1 (§§ 32.1-102.1 through 32.1-102.11) of Chapter 4 of Title 32.1 of the Code of Virginia, relating to certificate of public need program; phased elimination.

Patron—Scott, P.A.

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-3 and 32.1-102.1:3 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-3. Definitions.

As used in this title unless the context requires otherwise or it is otherwise provided:

"Board" or "State Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Department" means the State Department of Health.

"Medical care facility" means any institution, place, building, or agency, whether or not licensed or required to be licensed by the Board or the Department of Behavioral Health and Developmental Services, whether operated for profit or nonprofit, and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated, or offered for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity, or physical condition, whether medical or surgical, of two or more nonrelated persons who are injured or physically sick or have mental illness, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, nursing, acute, chronic, convalescent, or long-term care services, or services for individuals with disabilities, or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans.

The term "medical care facility" does not include any facility of (a) the Department of Behavioral Health and Developmental Services; (b) any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Behavioral Health and Developmental Services' Comprehensive State Plan; (c) an intermediate care facility for individuals with intellectual disability (ICF/IID) that has no more than 12 beds and is in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services; (d) a physician's office, except that portion of a physician's office described in subdivision A 6 2 of § 32.1-102.1:3; (e) the Wilson Workforce and Rehabilitation Center of the Department for Aging and Rehabilitative Services; (f) the Department of Corrections; or (g) the Department of Veterans Services.

"Person" means an individual, corporation, partnership, or association or any other legal entity.

§ 32.1-102.1:3. Medical care facilities and projects for which a certificate is required.

A. The following medical care facilities shall be subject to the provisions of this article:

1. Any facility licensed as a hospital, as defined in § 32.1-123;

2. Any hospital licensed as a provider by the Department of Behavioral Health and Developmental Services in accordance with Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2;

3. Any facility licensed as a nursing home, as defined in § 32.1-123;

4. Any intermediate care facility established primarily for the medical, psychiatric, or psychological treatment and rehabilitation of individuals with substance abuse licensed by the Department of Behavioral Health and Developmental Services in accordance with Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2;

5. Any intermediate care facility for individuals with developmental disabilities other than an intermediate care facility established for individuals with intellectual disability (ICF/IID) that has not more than 12 beds and is in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services; and

6. 2. Any specialized center or clinic or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation

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59 therapy, stereotactic radiotherapy other than radiotherapy performed using a linear accelerator or other
60 medical equipment that uses concentrated doses of high-energy X-rays to perform external beam
61 radiation therapy, or proton beam therapy.

62 B. The following actions undertaken by or on behalf of a medical care facility described in
63 subsection A shall constitute a project for which a certificate of public need is required pursuant to
64 subsection A of § 32.1-102.1:2:

65 1. Establishment of a medical care facility described in subsection A;

66 2. An increase in the total number of beds or operating rooms in an existing medical care facility
67 described in subsection A;

68 3. Relocation of beds from an existing medical care facility described in subsection A to another
69 existing medical care facility described in subsection A;

70 4. Addition of any new nursing home service at an existing medical care facility described in
71 subsection A;

72 5. Introduction into an existing medical care facility described in subsection A of any cardiac
73 catheterization, computed tomographic (CT) scanning, magnetic resonance imaging (MRI), medical
74 rehabilitation, neonatal special care, open heart surgery, positron emission tomographic (PET) scanning,
75 psychiatric, organ or tissue transplant service, radiation therapy, stereotactic radiotherapy other than
76 radiotherapy performed using a linear accelerator or other medical equipment that uses concentrated
77 doses of high-energy X-rays to perform external beam radiation therapy, proton beam therapy, or
78 substance abuse treatment when such medical care facility has not provided such service in the previous
79 12 months;

80 6. Conversion of beds in an existing medical care facility described in subsection A to medical
81 rehabilitation beds or psychiatric beds;

82 7. The addition by an existing medical care facility described in subsection A of any new medical
83 equipment for the provision of cardiac catheterization, computed tomographic (CT) scanning, magnetic
84 resonance imaging (MRI), open heart surgery, positron emission tomographic (PET) scanning, radiation
85 therapy, stereotactic radiotherapy other than radiotherapy performed using a linear accelerator or other
86 medical equipment that uses concentrated doses of high-energy X-rays to perform external beam
87 radiation therapy, or proton beam therapy, other than new medical equipment for the provision of such
88 service added to replace existing medical equipment for the provision of such service;

89 8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1
90 through 7, by or on behalf of a medical care facility described in subsection A other than a general
91 hospital. The amounts specified in this subdivision shall be revised annually to reflect inflation using
92 appropriate measures incorporating construction costs and medical inflation. Nothing in this subdivision
93 shall be construed to modify or eliminate the reviewability of any project described in subdivisions 1
94 through 7 when undertaken by or on behalf of a general hospital; and

95 9. Conversion in an existing medical care facility described in subsection A of psychiatric inpatient
96 beds approved pursuant to a Request for Applications (RFA) to nonpsychiatric inpatient beds.

97 C. Notwithstanding the provisions of subsection A, any nursing home affiliated with a facility that,
98 on January 1, 1982, and thereafter, (i) is operated as a nonprofit institution, (ii) is licensed jointly by the
99 Department as a nursing home and by the Department of Social Services as an assisted living facility,
100 and (iii) restricts admissions such that (a) admissions to the facility are only allowed pursuant to the
101 terms of a "life care contract" guaranteeing that the full complement of services offered by the facility is
102 available to the resident as and when needed, (b) admissions to the assisted living facility unit of the
103 facility are restricted to individuals defined as ambulatory by the Department of Social Services, and (c)
104 admissions to the nursing home unit of the facility are restricted to those individuals who are residents
105 of the assisted living facility unit of the facility shall not be subject to the requirements of this article.

106 D. Notwithstanding the provisions of subsection B, a certificate of public need shall not be required
107 for the following actions undertaken by or on behalf of a medical care facility described in subsection
108 A:

109 1. Relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing
110 medical care facility described in subsection A to another existing medical care facility described in
111 subsection A at the same site in any two-year period or (ii) in any three-year period, from one existing
112 medical care facility described in subsection A licensed as a nursing home to any other existing medical
113 care facility described in subsection A licensed as a nursing home that is owned or controlled by the
114 same person and located either within the same planning district or within another planning district out
115 of which, during or prior to that three-year period, at least 10 times that number of beds have been
116 authorized by statute to be relocated from one or more medical care facilities described in subsection A
117 located in that other planning district, and at least half of those beds have not been replaced; or

118 2. Use of up to 10 percent of beds as nursing home beds by a medical care facility described in
119 subsection A licensed as a hospital, as provided in § 32.1-132.

120 E. The Department shall regularly review the types of medical care facilities subject to the provisions

121 of this article and projects for which a certificate is required and provide to the Governor and the
 122 General Assembly, at least once every five years, a recommendation related to the continued
 123 appropriateness of requiring such types of medical care facilities to be subject to the provisions of this
 124 article and such types of projects to be subject to the requirement of a certificate. In developing such
 125 recommendations, the Department shall consider, for each type of medical care facility and project, the
 126 following criteria:

- 127 1. The current and projected future availability of the specific type of medical care facility or project;
- 128 2. The current and projected future demand for the specific type of medical care facility or project;
- 129 3. The current and projected future rate of utilization of the specific type of medical care facility or
 130 project;
- 131 4. The current and projected future capacity of existing medical care facilities or projects of that
 132 specific type;
- 133 5. The anticipated impact of changes in population and demographics, reimbursement structures and
 134 rates, and technology on demand for and availability, utilization, and capacity of existing medical care
 135 facilities or projects of that specific type;
- 136 6. Existing quality, utilization, and other controls applicable to the specific type of medical care
 137 facility or project; and
- 138 7. Any risk to the health or well-being of the public resulting from inclusion of the specific type of
 139 medical care facility or project on such list.

140 **2. That §§ 32.1-3, 32.1-102.1:1, and 32.1-102.1:3 of the Code of Virginia are amended and**
 141 **reenacted as follows:**

142 **§ 32.1-3. Definitions.**

143 As used in this title unless the context requires otherwise or it is otherwise provided:

144 "Board" or "State Board" means the State Board of Health.

145 "Commissioner" means the State Health Commissioner.

146 "Department" means the State Department of Health.

147 "Medical care facility" means any institution, place, building, or agency, whether or not licensed or
 148 required to be licensed by the Board or the Department of Behavioral Health and Developmental
 149 Services, whether operated for profit or nonprofit, and whether privately owned or privately operated or
 150 owned or operated by a local governmental unit, (i) by or in which health services are furnished,
 151 conducted, operated, or offered for the prevention, diagnosis, or treatment of human disease, pain,
 152 injury, deformity, or physical condition, whether medical or surgical, of two or more nonrelated persons
 153 who are injured or physically sick or have mental illness, or for the care of two or more nonrelated
 154 persons requiring or receiving medical, surgical, nursing, acute, chronic, convalescent, or long-term care
 155 services, or services for individuals with disabilities, or (ii) which is the recipient of reimbursements
 156 from third-party health insurance programs or prepaid medical service plans.

157 The term "medical care facility" does not include any facility of (a) the Department of Behavioral
 158 Health and Developmental Services; (b) any nonhospital substance abuse residential treatment program
 159 operated by or contracted primarily for the use of a community services board under the Department of
 160 Behavioral Health and Developmental Services' Comprehensive State Plan; (c) an intermediate care
 161 facility for individuals with intellectual disability (ICF/IID) that has no more than 12 beds and is in an
 162 area identified as in need of residential services for individuals with intellectual disability in any plan of
 163 the Department of Behavioral Health and Developmental Services; (d) a physician's office, except that
 164 portion of a physician's office described in subdivision A 6 of § 32.1-102.1:3; (e) the Wilson Workforce
 165 and Rehabilitation Center of the Department for Aging and Rehabilitative Services; (f) the Department
 166 of Corrections; or (g) the Department of Veterans Services.

167 "Person" means an individual, corporation, partnership, or association or any other legal entity.

168 **§ 32.1-102.1:1. Equipment registration required.**

169 ~~Within thirty calendar days of becoming~~ *Any person who becomes* contractually obligated to acquire
 170 any medical equipment for the provision of cardiac catheterization, computed tomographic (CT)
 171 scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source
 172 imaging (MSI), open heart surgery, positron emission tomographic (PET) scanning, radiation therapy,
 173 stereotactic radiotherapy, proton beam therapy, or other specialized service designated by the Board by
 174 regulation; ~~any person~~ *for the purpose of providing such services at any existing medical care facility*
 175 *located outside of a metropolitan statistical area or in a rural census tract within a metropolitan*
 176 *statistical area shall register such purchase with the Commissioner and the appropriate regional health*
 177 *planning agency within 30 days of becoming so obligated.*

178 **§ 32.1-102.1:3. Medical care facilities and projects for which a certificate is required.**

179 A. The following medical care facilities shall be subject to the provisions of this article:

180 1. ~~Any facility licensed as a hospital, as defined in § 32.1-123;~~

181 2. ~~Any hospital licensed as a provider by the Department of Behavioral Health and Developmental~~

182 Services in accordance with Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2;

183 3. Any facility licensed as a nursing home, as defined in § 32.1-123;

184 4. Any intermediate care facility established primarily for the medical, psychiatric, or psychological
185 treatment and rehabilitation of individuals with substance abuse licensed by the Department of
186 Behavioral Health and Developmental Services in accordance with Article 2 (§ 37.2-403 et seq.) of
187 Chapter 4 of Title 37.2;

188 5. Any intermediate care facility for individuals with developmental disabilities other than an
189 intermediate care facility established for individuals with intellectual disability (ICF/IID) that has not
190 more than 12 beds and is in an area identified as in need of residential services for individuals with
191 intellectual disability in any plan of the Department of Behavioral Health and Developmental Services;
192 and

193 6. 2. Any specialized center or clinic or that portion of a physician's office developed for the
194 provision of outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT)
195 scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation
196 therapy, stereotactic radiotherapy other than radiotherapy performed using a linear accelerator or other
197 medical equipment that uses concentrated doses of high-energy X-rays to perform external beam
198 radiation therapy, or proton beam therapy *that are located outside of a metropolitan statistical area or*
199 *in a rural census tract within a metropolitan statistical area.*

200 B. The following actions undertaken by or on behalf of a medical care facility described in
201 subsection A shall constitute a project for which a certificate of public need is required pursuant to
202 subsection A of § 32.1-102.1:2:

203 1. Establishment of a medical care facility described in subsection A;

204 2. An increase in the total number of beds or operating rooms in an existing medical care facility
205 described in subsection A;

206 3. Relocation of beds from an existing medical care facility described in subsection A to another
207 existing medical care facility described in subsection A;

208 4. Addition of any new nursing home service at an existing medical care facility described in
209 subsection A;

210 5. Introduction into an existing medical care facility described in subsection A of any cardiac
211 catheterization, computed tomographic (CT) scanning, magnetic resonance imaging (MRI), medical
212 rehabilitation, neonatal special care, open heart surgery, positron emission tomographic (PET) scanning,
213 psychiatric, organ or tissue transplant service, radiation therapy, stereotactic radiotherapy other than
214 radiotherapy performed using a linear accelerator or other medical equipment that uses concentrated
215 doses of high-energy X-rays to perform external beam radiation therapy, proton beam therapy, or
216 substance abuse treatment when such medical care facility has not provided such service in the previous
217 12 months;

218 6. Conversion of beds in an existing medical care facility described in subsection A to medical
219 rehabilitation beds or psychiatric beds;

220 7. The addition by an existing medical care facility described in subsection A of any new medical
221 equipment for the provision of cardiac catheterization, computed tomographic (CT) scanning, magnetic
222 resonance imaging (MRI), open heart surgery, positron emission tomographic (PET) scanning, radiation
223 therapy, stereotactic radiotherapy other than radiotherapy performed using a linear accelerator or other
224 medical equipment that uses concentrated doses of high-energy X-rays to perform external beam
225 radiation therapy, or proton beam therapy, other than new medical equipment for the provision of such
226 service added to replace existing medical equipment for the provision of such service;

227 8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1
228 through 7, by or on behalf of a medical care facility described in subsection A other than a general
229 hospital. The amounts specified in this subdivision shall be revised annually to reflect inflation using
230 appropriate measures incorporating construction costs and medical inflation. Nothing in this subdivision
231 shall be construed to modify or eliminate the reviewability of any project described in subdivisions 1
232 through 7 when undertaken by or on behalf of a general hospital; and

233 9. Conversion in an existing medical care facility described in subsection A of psychiatric inpatient
234 beds approved pursuant to a Request for Applications (RFA) to nonpsychiatric inpatient beds.

235 C. Notwithstanding the provisions of subsection A, any nursing home affiliated with a facility that,
236 on January 1, 1982, and thereafter, (i) is operated as a nonprofit institution, (ii) is licensed jointly by the
237 Department as a nursing home and by the Department of Social Services as an assisted living facility,
238 and (iii) restricts admissions such that (a) admissions to the facility are only allowed pursuant to the
239 terms of a "life care contract" guaranteeing that the full complement of services offered by the facility is
240 available to the resident as and when needed, (b) admissions to the assisted living facility unit of the
241 facility are restricted to individuals defined as ambulatory by the Department of Social Services, and (c)
242 admissions to the nursing home unit of the facility are restricted to those individuals who are residents
243 of the assisted living facility unit of the facility shall not be subject to the requirements of this article.

244 D. Notwithstanding the provisions of subsection B, a certificate of public need shall not be required
 245 for the following actions undertaken by or on behalf of a medical care facility described in subsection
 246 A:

247 1. Relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing
 248 medical care facility described in subsection A to another existing medical care facility described in
 249 subsection A at the same site in any two-year period or (ii) in any three-year period, from one existing
 250 medical care facility described in subsection A licensed as a nursing home to any other existing medical
 251 care facility described in subsection A licensed as a nursing home that is owned or controlled by the
 252 same person and located either within the same planning district or within another planning district out
 253 of which, during or prior to that three-year period, at least 10 times that number of beds have been
 254 authorized by statute to be relocated from one or more medical care facilities described in subsection A
 255 located in that other planning district, and at least half of those beds have not been replaced; or

256 2. Use of up to 10 percent of beds as nursing home beds by a medical care facility described in
 257 subsection A licensed as a hospital, as provided in § 32.1-132.

258 E. The Department shall regularly review the types of medical care facilities subject to the provisions
 259 of this article and projects for which a certificate is required and provide to the Governor and the
 260 General Assembly, at least once every five years, a recommendation related to the continued
 261 appropriateness of requiring such types of medical care facilities to be subject to the provisions of this
 262 article and such types of projects to be subject to the requirement of a certificate. In developing such
 263 recommendations, the Department shall consider, for each type of medical care facility and project, the
 264 following criteria:

265 1. The current and projected future availability of the specific type of medical care facility or project;
 266 2. The current and projected future demand for the specific type of medical care facility or project;
 267 3. The current and projected future rate of utilization of the specific type of medical care facility or
 268 project;

269 4. The current and projected future capacity of existing medical care facilities or projects of that
 270 specific type;

271 5. The anticipated impact of changes in population and demographics, reimbursement structures and
 272 rates, and technology on demand for and availability, utilization, and capacity of existing medical care
 273 facilities or projects of that specific type;

274 6. Existing quality, utilization, and other controls applicable to the specific type of medical care
 275 facility or project; and

276 7. Any risk to the health or well-being of the public resulting from inclusion of the specific type of
 277 medical care facility or project on such list.

278 3. That §§ 2.2-4006, 15.2-5386, 23.1-2412, 32.1-3, 32.1-23.5, 32.1-122.05, 32.1-122.10:001, 32.1-125.3,
 279 32.1-126.1, 32.1-126.3, 32.1-162.1, 32.1-276.5, 54.1-2400.6, and 54.1-2937.1 of the Code of Virginia
 280 are amended and reenacted as follows:

281 § 2.2-4006. Exemptions from requirements of this article.

282 A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia
 283 Register Act shall be exempted from the operation of this article:

284 1. Agency orders or regulations fixing rates or prices.

285 2. Regulations that establish or prescribe agency organization, internal practice or procedures,
 286 including delegations of authority.

287 3. Regulations that consist only of changes in style or form or corrections of technical errors. Each
 288 promulgating agency shall review all references to sections of the Code of Virginia within their
 289 regulations each time a new supplement or replacement volume to the Code of Virginia is published to
 290 ensure the accuracy of each section or section subdivision identification listed.

291 4. Regulations that are:

292 a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no
 293 agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days
 294 of the law's effective date;

295 b. Required by order of any state or federal court of competent jurisdiction where no agency
 296 discretion is involved; or

297 c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not
 298 differ materially from those required by federal law or regulation, and the Registrar has so determined in
 299 writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be
 300 published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

301 5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B
 302 of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or
 303 more Board meetings and one public hearing.

304 6. Regulations of (i) the regulatory boards served by the Department of Labor and Industry pursuant

305 to Title 40.1 and the Department of Professional and Occupational Regulation or the Department of
 306 Health Professions pursuant to Title 54.1 and (ii) the Board of Accountancy that are limited to reducing
 307 fees charged to regulants and applicants.

308 7. The development and issuance of procedural policy relating to risk-based mine inspections by the
 309 Department of Energy authorized pursuant to §§ 45.2-560 and 45.2-1149.

310 8. General permits issued by ~~the (a)~~ (i) the State Air Pollution Control Board pursuant to Chapter 13
 311 (§ 10.1-1300 et seq.) of Title 10.1 ~~or (b)~~, (ii) the State Water Control Board pursuant to the State Water
 312 Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25
 313 (§ 62.1-254 et seq.) of Title 62.1, ~~(c)~~ (iii) the Virginia Soil and Water Conservation Board pursuant to
 314 the Dam Safety Act (§ 10.1-604 et seq.), and ~~(d)~~ (iv) the development and issuance of general wetlands
 315 permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective
 316 Board or Commission ~~(i)~~ (a) provides a Notice of Intended Regulatory Action in conformance with the
 317 provisions of § 2.2-4007.01, ~~(ii)~~ (b) following the passage of 30 days from the publication of the Notice
 318 of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders,
 319 including potentially affected citizens groups, to assist in the development of the general permit, ~~(iii)~~ (c)
 320 provides notice and receives oral and written comment as provided in § 2.2-4007.03, and ~~(iv)~~ (d)
 321 conducts at least one public hearing on the proposed general permit.

322 9. The development and issuance by the Board of Education of guidelines on constitutional rights
 323 and restrictions relating to the recitation of the pledge of allegiance to the American flag in public
 324 schools pursuant to § 22.1-202.

325 10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.

326 11. Regulations of the Marine Resources Commission.

327 12. Regulations adopted by the Board of Housing and Community Development pursuant to (i)
 328 Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et
 329 seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the
 330 Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of
 331 § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written
 332 comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§
 333 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions
 334 of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of
 335 § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the
 336 Governor and General Assembly.

337 13. Amendments to regulations of the Board to schedule a substance pursuant to subsection D or E
 338 of § 54.1-3443.

339 14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant
 340 to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01
 341 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the
 342 Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period,
 343 forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary
 344 response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the
 345 provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the
 346 Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the
 347 Governor and General Assembly.

348 15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including
 349 regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the
 350 Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in
 351 subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an
 352 opportunity for public comment on the regulations prior to adoption.

353 16. Amendments to the State Health Services Plan adopted by the Board of Health following receipt
 354 of recommendations by the State Health Services Task Force pursuant to ~~§ 32.1-102.2:1~~ if the Board (i)
 355 provides a Notice of Intended Regulatory Action in accordance with the requirements of § 2.2-4007.01,
 356 (ii) provides notice and receives comments as provided in § 2.2-4007.03, and (iii) conducts at least one
 357 public hearing on the proposed amendments.

358 B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it
 359 will receive, consider, and respond to petitions by any interested person at any time with respect to
 360 reconsideration or revision. The effective date of regulations adopted under this section shall be in
 361 accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall
 362 become effective as provided in subsection B of § 2.2-4012.

363 C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and
 364 that is placed before a board or commission for consideration shall be provided at least two days in
 365 advance of the board or commission meeting to members of the public that request a copy of that
 366 regulation. A copy of that regulation shall be made available to the public attending such meeting.

367 **§ 15.2-5386. Limitations of the Authority.**

368 A. No provision related to the establishment, powers, or authorities of the Southwest Virginia Health
 369 Authority, or its subsidiaries, or successors, shall apply to the facilities, equipment, or appropriations of
 370 any state agency, including, but not limited to, the Virginia Department of Health and the Department of
 371 Behavioral Health and Developmental Services.

372 B. ~~The Authority, its subsidiaries or successors, shall not be exempt from the Certificate of Public
 373 Need law and regulations or licensure standards of the Virginia Department of Health.~~

374 C. No provision of this chapter related to the establishment, power, or authority of the Authority or
 375 participating localities shall apply to or affect any hospital as defined in § 32.1-123.

376 **§ 23.1-2412. Transfer of existing hospital facilities.**

377 A. The University may lease, convey, or otherwise transfer to the Authority any or all assets and
 378 liabilities appearing on the balance sheet of MCV Hospitals and any or all of the hospital facilities,
 379 except real estate that may be leased to the Authority for a term not to exceed 99 years, upon such
 380 terms as may be approved by the University.

381 B. Any transfer of hospital facilities pursuant to subsection A is conditioned upon the existence of a
 382 binding agreement between the University and the Authority:

383 1. That requires the Authority to assume, directly or indirectly, hospital obligations that are directly
 384 relating to the hospital facilities or any part of the hospital facilities that are transferred, including rentals
 385 as provided in subsection C or a combination of rentals and other obligations in the case of a lease of
 386 hospital facilities;

387 2. That provides that, effective on the transfer date, the Authority shall assume responsibility for,
 388 defend, indemnify, and hold harmless the University and its officers and directors with respect to:

389 a. All liabilities and duties of the University pursuant to contracts, agreements, and leases for
 390 commodities, services, and supplies used by MCV Hospitals, including property leases;

391 b. All claims relating to the employment relationship between employees of the Authority and the
 392 University on and after the transfer date;

393 c. All claims for breach of contract resulting from the Authority's action or failure to act on and after
 394 the transfer date;

395 d. All claims relating to the Authority's errors and omissions, including medical malpractice,
 396 directors' and officers' liability, workers' compensation, automobile liability, premises liability, completed
 397 operations liability, and products liability resulting from the Authority's action or failure to act on and
 398 after the transfer date; and

399 3. By which the Authority shall accept and agree to abide by provisions that ensure the continued
 400 support of the education, research, patient care, and public service missions of MCV Hospitals,
 401 including:

402 a. A requirement that the Authority continue to provide emergency and inpatient indigent care
 403 services on the MCV campus of the University in locations including downtown Richmond; and

404 b. A requirement that the Authority continue to act as the primary teaching facility for the Virginia
 405 Commonwealth University School of Medicine and the Health Sciences Schools of the University.

406 C. Any lease of hospital facilities from the University to the Authority may include a provision that
 407 requires the Authority to pay the University a rental payment for the hospital facilities that are leased.
 408 For those hospital facilities for which rent is paid, the rent shall be at least equal to the greater of:

409 1. The debt service accruing during the term of the lease on all outstanding bonds issued for the
 410 purpose of financing the acquisition, construction, or improvement of the hospital facilities on which
 411 rent is paid; or

412 2. A nominal amount determined by the parties to be necessary to prevent the lease from being
 413 unenforceable because of a lack of consideration.

414 D. Any lease of hospital facilities shall include a provision that requires the Authority to continue to
 415 support the education, research, patient care, and public service missions of MCV Hospitals, including:

416 1. A requirement that the Authority continue to provide emergency and inpatient indigent care
 417 services on the MCV campus of the University in locations including downtown Richmond; and

418 2. A requirement that the Authority continue to act as the primary teaching facility for the Health
 419 Sciences Schools of the University.

420 E. All other agencies and officers of the Commonwealth shall take such actions as may be necessary
 421 or desirable in the judgment of the University to permit such conveyance and the full use and enjoyment
 422 of the hospital facilities, including the transfer of property of any type held in the name of the
 423 Commonwealth or an instrumentality or agency of the Commonwealth but used by the University in the
 424 operation of the hospital facilities.

425 F. The Authority may pay to or on behalf of the University some or all of the costs of the hospital
 426 facilities. The University may apply some or all of such proceeds to the payment or defeasance of its
 427 obligations issued to finance the hospital facilities, and the Authority may issue its bonds to finance or

428 refinance such payment.

429 G. Funds held by or for the University or any of its predecessors or divisions, including funds held
 430 by the University Foundation or the MCV Foundation for the benefit of MCV Hospitals or any of its
 431 predecessors for use in operating, maintaining, or constructing hospital facilities, providing medical and
 432 health sciences education, or conducting medical or related research may be transferred, in whole or in
 433 part, to the Authority if the University or any foundation determines that the transfer is consistent with
 434 the intended use of the funds. The University may direct in writing that all or part of the money or
 435 property representing its beneficial interest under a will, trust agreement, or other donative instrument be
 436 distributed to the Authority if the University determines that such direction furthers any of the original
 437 purposes of the will, trust agreement, or other instrument. Such a direction shall not be considered a
 438 waiver, disclaimer, renunciation, assignment, or disposition of the beneficial interest by the University. A
 439 fiduciary's distribution to the Authority pursuant to such a written direction from the University is a
 440 distribution to the University for all purposes relating to the donative instrument, and the fiduciary has
 441 no liability for distributing any money or property to the Authority pursuant to such a direction. Nothing
 442 in this section shall deprive any court of its jurisdiction to determine whether such a distribution is
 443 appropriate under its cy pres powers or otherwise.

444 H. The Authority shall not operate any hospital pursuant to this section prior to execution of the
 445 lease and agreement required by this section and such other agreements as may be necessary or
 446 convenient in the University's judgment to provide for the transfer of the operations of the hospital
 447 facilities to the Authority, unless and to the extent that the University approves otherwise.

448 I. The University may assign and the Authority may accept the rights and assume the obligations
 449 under any contract or other agreement of any type relating to financing or operating the hospital
 450 facilities. Upon evidence that such assignment and acceptance has been made, all agencies and
 451 instrumentalities of the Commonwealth shall consent to such assignment and accept the substitution of
 452 the Authority for the University as a party to such agreement to the extent that the University's
 453 obligations under such agreement relate to the ownership, operation, or financing of the hospital
 454 facilities. Indebtedness previously incurred by the Commonwealth, the Virginia Public Building
 455 Authority, the Virginia College Building Authority, and any other agency or instrumentality of the
 456 Commonwealth to finance the hospital facilities may continue to remain outstanding after the transfer
 457 and assignment of such agreement by the University to the Authority.

458 J. ~~The transfer of the hospital facilities from the University to the Authority does not require a~~
 459 ~~certificate of public need pursuant to Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1. All~~
 460 ~~licenses, permits, certificates of public need, or other authorizations of the Commonwealth, any agency~~
 461 ~~of the Commonwealth, or any locality held by the University in connection with the ownership or~~
 462 ~~operation of the hospital facilities are transferred without further action to the Authority to the extent~~
 463 ~~that the Authority undertakes the activity permitted by such authorizations. All agencies and officers of~~
 464 ~~the Commonwealth and all localities shall confirm such transfer by the issuance of new or amended~~
 465 ~~licenses, permits, certificates of public need, or other authorizations upon the request of the University~~
 466 ~~and the Authority.~~

467 K. If for any reason the Authority cannot replace the University as a party to any agreement in
 468 connection with the financing, ownership, or operation of the hospital facilities, the Authority and the
 469 University may require the Authority to act as agent for the University in carrying out its obligations
 470 under such agreement or receiving the benefits under such agreement, or both.

471 **§ 32.1-3. Definitions.**

472 As used in this title, unless the context requires otherwise or it is otherwise provided a different
 473 meaning:

474 "Board" or "State Board" means the State Board of Health.

475 "*Charity care*" means health care services delivered to a patient who has a family income at or
 476 below 200 percent of the federal poverty level and for which it was determined that no payment was
 477 expected (i) at the time the service was provided because the patient met the facility's criteria for the
 478 provision of care without charge due to the patient's status as an indigent person or (ii) at some time
 479 following the time the service was provided because the patient met the facility's criteria for the
 480 provision of care without charge due to the patient's status as an indigent person. "*Charity care*" does
 481 not include care provided for a fee subsequently deemed uncollectable as bad debt. For a nursing home
 482 as defined in § 32.1-123, "*charity care*" means care at a reduced rate to indigent persons.

483 "Commissioner" means the State Health Commissioner.

484 "Department" means the State Department of Health.

485 "Medical care facility" means any institution, place, building, or agency, whether or not licensed or
 486 required to be licensed by the Board or the Department of Behavioral Health and Developmental
 487 Services, whether operated for profit or nonprofit, and whether privately owned or privately operated or
 488 owned or operated by a local governmental unit, (i) by or in which health services are furnished,
 489 conducted, operated, or offered for the prevention, diagnosis, or treatment of human disease, pain,

490 injury, deformity, or physical condition, whether medical or surgical, of two or more nonrelated persons
 491 who are injured or physically sick or have mental illness, or for the care of two or more nonrelated
 492 persons requiring or receiving medical, surgical, nursing, acute, chronic, convalescent, or long-term care
 493 services, or services for individuals with disabilities, or (ii) which is the recipient of reimbursements
 494 from third-party health insurance programs or prepaid medical service plans.

495 The term "medical care facility" does not include any facility of (a) the Department of Behavioral
 496 Health and Developmental Services; (b) any nonhospital substance abuse residential treatment program
 497 operated by or contracted primarily for the use of a community services board under the Department of
 498 Behavioral Health and Developmental Services' Comprehensive State Plan; (c) an intermediate care
 499 facility for individuals with intellectual disability (ICF/IID) that has no more than 12 beds and is in an
 500 area identified as in need of residential services for individuals with intellectual disability in any plan of
 501 the Department of Behavioral Health and Developmental Services; (d) a physician's office; ~~except that~~
 502 ~~portion of a physician's office described in subdivision A 6 of § 32.1-102.1-3;~~ (e) the Wilson Workforce
 503 and Rehabilitation Center of the Department for Aging and Rehabilitative Services; (f) the Department
 504 of Corrections; or (g) the Department of Veterans Services.

505 "Person" means an individual, corporation, partnership, or association or any other legal entity.

506 **§ 32.1-23.5. Reporting of certain data regarding financial assistance.**

507 The Commissioner shall report annually by November 1 to the Chairmen of the House Committees
 508 on Appropriations and Health, Welfare and Institutions and the Senate Committees on Finance and
 509 Appropriations and Education and Health regarding data collected pursuant to subsection ~~F E~~ of
 510 § 32.1-276.5, including the value of (i) the amount of charity care, discounted care, or other financial
 511 assistance provided by each hospital under its financial assistance policy that is required to be reported
 512 in accordance with subsection ~~F E~~ of § 32.1-276.5 and (ii) the amount of uncollected bad debt, including
 513 any uncollected bad debt from payment plans entered into in accordance with subsection C of
 514 § 32.1-137.09.

515 **§ 32.1-122.05. Regional health planning agencies; boards; duties and responsibilities.**

516 A. For the purpose of representing the interests of health planning regions and performing health
 517 planning activities at the regional level, there are hereby created such regional health planning agencies
 518 as may be designated by the Board of Health.

519 B. Each regional health planning agency shall be governed by a regional health planning board to be
 520 composed of not more than ~~thirty~~ 30 residents of the region. The membership of the regional health
 521 planning boards shall include, but not be limited to, consumers, providers, a director of a local health
 522 department, a director of a local department of social services or welfare, a director of a community
 523 services board, a director of an area agency on aging and representatives of health care insurers, local
 524 governments, the business community and the academic community. The majority of the members of
 525 each regional health planning board shall be consumers. Consumer members shall be appointed in a
 526 manner that ensures the equitable geographic and demographic representation of the region. Provider
 527 members shall be solicited from professional organizations, service and educational institutions and
 528 associations of service providers and health care insurers in a manner that assures equitable
 529 representation of provider interest.

530 The members of the regional health planning boards shall be appointed for no more than two
 531 consecutive terms of four years or, when appointed to fill an unexpired term of less than four years, for
 532 three consecutive terms consisting of one term of less than four years and two terms of four years. The
 533 boards shall not be self-perpetuating. The Board of Health shall establish procedures requiring staggered
 534 terms. The composition and the method of appointment of the regional health planning boards shall be
 535 established in the regulations of the Board of Health. In addition, the Board of Health shall require,
 536 pursuant to regulations, each regional health planning board to report and maintain a record of its
 537 membership, including, but not limited to, the names, addresses, dates of appointment, years served,
 538 number of consecutive and nonconsecutive terms, and the group represented by each member. These
 539 membership reports and records shall be public information and shall be published in accordance with
 540 the regulations of the Board.

541 C. An agreement shall be executed between the Commissioner, in consultation with the Board of
 542 Health, and each regional health planning board to delineate the work plan and products to be developed
 543 with state funds. Funding for the regional health planning agencies shall be contingent upon meeting
 544 these obligations and complying with the Board's regulations.

545 D. Each regional health planning agency shall assist the Board of Health by: (i) conducting data
 546 collection, research and analyses as required by the Board; (ii) preparing reports and studies in
 547 consultation and cooperation with the Board; (iii) reviewing and commenting on the components of the
 548 State Health Plan; (iv) conducting needs assessments as appropriate and serving as a technical resource
 549 to the Board; (v) identifying gaps in services, inappropriate use of services or resources and assessing
 550 accessibility of critical services; and (vi) ~~reviewing applications for certificates of public need and~~

551 making recommendations to the Department thereon as provided in § 32.1-102.6; and (vii) conducting
 552 such other functions as directed by the regional health planning board. All regional health planning
 553 agencies shall demonstrate and document accountability for state funds through annual budget
 554 projections and quarterly expenditure and activity reports that shall be submitted to the Commissioner. A
 555 regional health planning agency may designate membership and activities at subarea levels as deemed
 556 appropriate by its regional health planning board. Each regional health planning board shall adopt
 557 bylaws for its operation and for the election of its chairman and shall maintain and publish a record of
 558 its membership and any subarea levels as required by this section and the regulations of the Board of
 559 Health.

560 **§ 32.1-122.10:001. Purpose; one or more localities may create authority; advertisement and**
 561 **notice of hearing.**

562 A. Communities lack the ability to coordinate, across jurisdictions, health partnership efforts between
 563 local governments and private providers of health care services, which leads to duplicative and
 564 inefficient services. Such public/private partnerships could (i) encourage the use of service delivery that
 565 otherwise might have required government funding or programs; (ii) allow governments to fully
 566 participate in such partnerships; (iii) maximize the willingness of individuals, agencies, and private
 567 organizations to lend their expertise to help satisfy community needs; (iv) allow innovative funding
 568 mechanisms to leverage public funds; (v) allow appropriate information sharing to ensure the adequacy
 569 and quality of services delivered; (vi) provide liability protection for volunteers providing services under
 570 programs sponsored or approved by the authority; (vii) provide a mechanism to ensure that services
 571 provided in the community are necessary, appropriate, and provided by trained and supervised persons;
 572 and (viii) allow volunteers and others to focus their energies to achieve community health improvement.
 573 Health care services include, but are not limited to, treatment of and education about acute and chronic
 574 diseases, wellness and prevention activities that promote the health of communities, and access to
 575 services and activities.

576 B. The governing body of a locality may by ordinance or resolution, or the governing bodies of two
 577 or more localities may by concurrent ordinances or resolutions or by agreement, create a local health
 578 partnership authority ~~which~~ that shall have as its purpose developing partnerships between public and
 579 private providers. The ordinance, resolution, or agreement creating the authority shall not be adopted or
 580 approved until a public hearing has been held on the question of its adoption or approval. The authority
 581 shall be a public body politic and corporate.

582 C. The governing body of each participating locality shall cause to be advertised at least one time in
 583 a newspaper of general circulation in such locality a copy of the ordinance, resolution, or agreement
 584 creating the authority, or a descriptive summary of the ordinance, resolution, or agreement and a
 585 reference to the place where a copy of such ordinance, resolution, or agreement can be obtained, and
 586 notice of the day, not less than 30 days after publication of the advertisement, on which a public hearing
 587 will be held on the ordinance, resolution, or agreement.

588 D. No authority created pursuant to this article shall be exempt from any ~~of the provisions of the~~
 589 ~~Certificate of Public Need laws and~~ regulations of the Commonwealth.

590 E. No authority created pursuant to this article shall be allowed to issue bonds or other form of
 591 indebtedness.

592 F. Any authority created pursuant to this article shall report on programmatic initiatives on an annual
 593 basis to the Joint Commission on Health Care.

594 **§ 32.1-125.3. Bed capacity and licensure in hospitals designated as critical access hospitals;**
 595 **designation as rural hospital.**

596 A. Any medical care facility licensed as a hospital pursuant to this article that (i) has been certified,
 597 as provided in § 32.1-122.07, as a critical access hospital by the Commissioner of Health in compliance
 598 with the certification regulations promulgated by the Health Care Financing Administration pursuant to
 599 Title XVIII of the Social Security Act, as amended, and (ii) has, as a result of the critical access
 600 certification, been required to reduce its licensed bed capacity to conform to the critical access
 601 certification requirement shall, upon termination of its critical access hospital certification, be licensed to
 602 operate at the licensed bed capacity in existence prior to the critical access hospital certification without
 603 being required to apply for and obtain a certificate of public need for such bed capacity in accordance
 604 with Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of this title.

605 B. Any medical care facility licensed as a hospital shall be considered a rural hospital on and after
 606 September 30, 2004, pursuant to 42 U.S.C. § 1395ww(d)(8)(E)(ii)(II), if (i) the hospital is located in an
 607 area defined as rural by federal statute or regulation; (ii) the Board of Health defines, in regulation, the
 608 area in which the hospital is located as a rural health area or the hospital as a rural hospital; or (iii) the
 609 hospital was designated, prior to October 1, 2004, as a Medicare-dependent small rural health hospital,
 610 as defined in 42 U.S.C. § 1395ww(d)(5)(G)(iv).

611 **§ 32.1-126.1. Asbestos inspection for hospitals.**

612 The Commissioner shall not issue a license to or renew the license of any hospital which is located

613 in a building built prior to 1978 until he receives a written statement that either (i) the hospital has been
 614 inspected for asbestos in accordance with standards in effect at the time of inspection; or (ii) that
 615 asbestos inspection will be conducted within ~~twelve~~ 12 months of issuance or renewal, in accordance
 616 with the standards established pursuant to § 2.2-1164 in the case of state-owned buildings or § 36-99.7
 617 in the case of all other buildings; and (iii) that response actions have been or will be undertaken in
 618 accordance with applicable standards. Any asbestos management program or response action undertaken
 619 by a hospital shall comply with the standards promulgated pursuant to § 2.2-1164 in the case of
 620 state-owned buildings or § 36-99.7 in the case of all others.

621 The Commissioner may amend the standards for inspections, management programs and response
 622 actions for hospitals subject to this section, in accordance with the requirements of the Virginia
 623 Administrative Process Act (§ 2.2-4000 et seq.).

624 The provisions of Article 1.1 (~~§ 32.1-102.1 et seq.~~) of Chapter 4 of this title shall not apply to
 625 expenditures made by hospitals pursuant to the provisions of this section.

626 **§ 32.1-126.3. Fire suppression systems required in hospitals.**

627 A. After January 1, 1998, the Commissioner shall not issue a license to or renew the license of any
 628 hospital, regardless of when such facility was constructed, unless the hospital is equipped with an
 629 automatic sprinkler system which complies with the regulations of the Board of Housing and
 630 Community Development.

631 The Commissioner may, at his discretion, extend the time for compliance with this section for any
 632 hospital that can demonstrate (i) its inability to comply, if such hospital submits, prior to January 1,
 633 1998, a plan for compliance by a date certain which shall be no later than July 1, 1998, or (ii) that
 634 construction is underway for a new facility to house the services currently located in the noncomplying
 635 facility and that such construction will be completed and the noncomplying facility relocated by
 636 December 31, 1998.

637 The provisions of Article 1.1 (~~§ 32.1-102.1 et seq.~~) of Chapter 4 of this title shall not apply to
 638 expenditures required solely for compliance with this section.

639 B. For the purposes of this section and § 36-99.9:1, "automatic sprinkler system" means a device for
 640 suppressing fire in patient rooms and other areas of the hospital customarily used for patient care.

641 **§ 32.1-162.1. Definitions.**

642 As used in this article, unless *the context requires* a different meaning ~~or construction is clearly~~
 643 ~~required by the context or otherwise:~~

644 "Hospice" means a coordinated program of home and inpatient care provided directly or through an
 645 agreement under the direction of an identifiable hospice administration providing palliative and
 646 supportive medical and other health services to terminally ill patients and their families. A hospice
 647 utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the
 648 physical, psychological, social, spiritual, and other special needs ~~which that~~ are experienced during the
 649 final stages of illness, and during dying and bereavement. Hospice care shall be available ~~twenty-four~~ 24
 650 hours a day, seven days a week.

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

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

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

664 "Identifiable hospice administration" means an administrative group, individual, or legal entity that
 665 has a distinct organizational structure, accountable to the governing authority directly or through a chief
 666 executive officer. This administration shall be responsible for the management of all aspects of the
 667 program.

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

671 "Interdisciplinary team" means the patient and the patient's family, the attending physician, and the
 672 following hospice personnel: physician, nurse, social worker, and trained volunteer. Physician assistants
 673 and providers of special services, such as clergy, mental health, pharmacy, and any other appropriate

674 allied health services, may also be included on the team as the needs of the patient dictate.

675 "Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing
676 on the special needs of the patient and family as they experience the stress of the dying process, rather
677 than the treatment aimed at investigation and intervention for the purpose of cure or prolongation of life.

678 **§ 32.1-276.5. Providers to submit data; civil penalty.**

679 A. Every health care provider shall submit data as required pursuant to regulations of the Board,
680 consistent with the recommendations of the nonprofit organization in its strategic plans submitted and
681 approved pursuant to § 32.1-276.4, and as required by this section. Such data shall include relevant data
682 and information for any parent or subsidiary company of the health care provider that operates in the
683 Commonwealth. Notwithstanding the provisions of Chapter 38 (§ 2.2-3800 et seq.) of Title 2.2, it shall
684 be lawful to provide information in compliance with the provisions of this chapter.

685 B. In addition, health maintenance organizations shall annually submit to the Commissioner, to make
686 available to consumers who make health benefit enrollment decisions, audited data consistent with the
687 latest version of the Health Employer Data and Information Set (HEDIS), as required by the National
688 Committee for Quality Assurance, or any other quality of care or performance information set as
689 approved by the Board. The Commissioner, at his discretion, may grant a waiver of the HEDIS or other
690 approved quality of care or performance information set upon a determination by the Commissioner that
691 the health maintenance organization has met Board-approved exemption criteria. The Board shall
692 promulgate regulations to implement the provisions of this section.

693 The Commissioner shall also negotiate and contract with a nonprofit organization authorized under
694 § 32.1-276.4 for compiling, storing, and making available to consumers the data submitted by health
695 maintenance organizations pursuant to this section. The nonprofit organization shall assist the Board in
696 developing a quality of care or performance information set for such health maintenance organizations
697 and shall, at the Commissioner's discretion, periodically review this information set for its effectiveness.

698 C. Every medical care facility as that term is defined in ~~§ 32.1-3~~ that furnishes, conducts, operates, or
699 offers any reviewable service shall report data on utilization of such service to the Commissioner, who
700 shall contract with the nonprofit organization authorized under this chapter to collect and disseminate
701 such data. For purposes of this section, "reviewable service" shall mean inpatient beds, operating rooms,
702 nursing home services, cardiac catheterization, computed tomographic (CT) scanning, stereotactic
703 radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging, medical
704 rehabilitation, neonatal special care, obstetrical services, open heart surgery, positron emission
705 tomographic (PET) scanning, psychiatric services, organ and tissue transplant services, radiation therapy,
706 stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging except for the purpose of
707 nuclear cardiac imaging, and substance abuse treatment.

708 Every medical care facility for which a certificate of public need with conditions imposed pursuant to
709 § 32.1-102.4 is issued shall report to the Commissioner data on charity care, as that term is defined in
710 ~~§ 32.1-102.1~~, provided to satisfy a condition of a certificate of public need, including (i) the total
711 amount of such charity care the facility provided to indigent persons; (ii) the number of patients to
712 whom such charity care was provided; (iii) the specific services delivered to patients that are reported as
713 charity care recipients; and (iv) the portion of the total amount of such charity care provided that each
714 service represents. The value of charity care reported shall be based on the medical care facility's
715 submission of applicable Diagnosis Related Group codes and Current Procedural Terminology codes
716 aligned with methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement
717 under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. Notwithstanding the foregoing,
718 every nursing home as defined in ~~§ 32.1-123~~ for which a certificate of public need with conditions
719 imposed pursuant to ~~§ 32.1-102.4~~ is issued shall report data on utilization and other data in accordance
720 with regulations of the Board.

721 A medical care facility that fails to report data required by this subsection shall be subject to a civil
722 penalty of up to \$100 per day per violation, which shall be collected by the Commissioner and paid into
723 the Literary Fund.

724 D. Every continuing care retirement community established pursuant to Chapter 49 (§ 38.2-4900 et
725 seq.) of Title 38.2 that includes nursing home beds shall report data on utilization of such nursing home
726 beds to the Commissioner, who shall contract with the nonprofit organization authorized under this
727 chapter to collect and disseminate such data.

728 E. D. Every hospital that receives a disproportionate share hospital adjustment pursuant to §
729 1886(d)(5)(F) of the Social Security Act shall report, in accordance with regulations of the Board
730 consistent with recommendations of the nonprofit organization in its strategic plan submitted and
731 provided pursuant to § 32.1-276.4, the number of inpatient days attributed to patients eligible for
732 Medicaid but not Medicare Part A and the total amount of the disproportionate share hospital adjustment
733 received.

734 F. E. Every hospital shall annually report, in accordance with regulations of the Board consistent
735 with recommendations of the nonprofit organization in its strategic plan submitted and provided pursuant

736 to § 32.1-276.4, data and information regarding (i) the amount of charity care, discounted care, or other
 737 financial assistance provided by the hospital under its financial assistance policy pursuant to
 738 § 32.1-137.09 and (ii) the amount of uncollected bad debt, including any uncollected bad debt from
 739 payment plans entered into in accordance with subsection C of § 32.1-137.09.

740 *G. F.* The Board shall evaluate biennially the impact and effectiveness of such data collection.

741 **§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations,**
 742 **and assisted living facilities required to report disciplinary actions against and certain disorders of**
 743 **health professionals; immunity from liability; failure to report.**

744 A. The chief executive officer and the chief of staff of every hospital or other health care institution
 745 in the Commonwealth, the director of every licensed home health or hospice organization, the director
 746 of every accredited home health organization exempt from licensure, the administrator of every licensed
 747 assisted living facility, and the administrator of every provider licensed by the Department of Behavioral
 748 Health and Developmental Services in the Commonwealth shall report within 30 days, except as
 749 provided in subdivision 1, to the Director of the Department of Health Professions, or in the case of a
 750 director of a home health or hospice organization, to the Office of Licensure and Certification at the
 751 Department of Health (the Office), the following information regarding any person (i) licensed, certified,
 752 or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice
 753 nursing or an applicant for licensure, certification, or registration unless exempted under subsection E:

754 1. Any information of which he may become aware in his official capacity indicating a reasonable
 755 belief that such a health professional is in need of treatment or has been voluntarily admitted as a
 756 patient, either at his institution or any other health care institution, for treatment of substance abuse or a
 757 psychiatric illness that may render the health professional a danger to himself, the public, or his patients.
 758 If such health care professional has been involuntarily admitted as a patient, either in his own institution
 759 or any other health care institution, for treatment of substance abuse or a psychiatric illness, the report
 760 required by this section shall be made within five days of the date on which the chief executive officer,
 761 chief of staff, director, or administrator learns of the health care professional's involuntary admission.

762 2. Any information of which he may become aware in his official capacity indicating a reasonable
 763 belief, after review and, if necessary, an investigation or consultation with the appropriate internal boards
 764 or committees authorized to impose disciplinary action on a health professional, that a health
 765 professional may have engaged in unethical, fraudulent, or unprofessional conduct as defined by the
 766 pertinent licensing statutes and regulations. The report required under this subdivision shall be submitted
 767 within 30 days of the date that the chief executive officer, chief of staff, director, or administrator
 768 determines that such reasonable belief exists.

769 3. Any disciplinary proceeding begun by the institution, organization, facility, or provider as a result
 770 of conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a
 771 patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v)
 772 substance abuse. The report required under this subdivision shall be submitted within 30 days of the
 773 date of written communication to the health professional notifying him of the initiation of a disciplinary
 774 proceeding.

775 4. Any disciplinary action taken during or at the conclusion of disciplinary proceedings or while
 776 under investigation, including but not limited to denial or termination of employment, denial or
 777 termination of privileges or restriction of privileges that results from conduct involving (i) intentional or
 778 negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics,
 779 (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under
 780 this subdivision shall be submitted within 30 days of the date of written communication to the health
 781 professional notifying him of any disciplinary action.

782 5. The voluntary resignation from the staff of the health care institution, home health or hospice
 783 organization, assisted living facility, or provider, or voluntary restriction or expiration of privileges at the
 784 institution, organization, facility, or provider, of any health professional while such health professional is
 785 under investigation or is the subject of disciplinary proceedings taken or begun by the institution,
 786 organization, facility, or provider or a committee thereof for any reason related to possible intentional or
 787 negligent conduct that causes or is likely to cause injury to a patient or patients, medical incompetence,
 788 unprofessional conduct, moral turpitude, mental or physical impairment, or substance abuse.

789 Any report required by this section shall be in writing directed to the Director of the Department of
 790 Health Professions or to the Director of the Office of Licensure and Certification at the Department of
 791 Health, shall give the name, address, and date of birth of the person who is the subject of the report and
 792 shall fully describe the circumstances surrounding the facts required to be reported. The report shall
 793 include the names and contact information of individuals with knowledge about the facts required to be
 794 reported and the names and contact information of individuals from whom the hospital or health care
 795 institution, organization, facility, or provider sought information to substantiate the facts required to be
 796 reported. All relevant medical records shall be attached to the report if patient care or the health

797 professional's health status is at issue. The reporting hospital, health care institution, home health or
798 hospice organization, assisted living facility, or provider shall also provide notice to the Department or
799 the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care
800 Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution,
801 home health or hospice organization, assisted living facility, or provider shall give the health
802 professional who is the subject of the report an opportunity to review the report. The health professional
803 may submit a separate report if he disagrees with the substance of the report.

804 This section shall not be construed to require the hospital, health care institution, home health or
805 hospice organization, assisted living facility, or provider to submit any proceedings, minutes, records, or
806 reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not bar
807 (i) any report required by this section or (ii) any requested medical records that are necessary to
808 investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that
809 should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this
810 section be construed to waive or limit the privilege provided in § 8.01-581.17. No person or entity shall
811 be obligated to report any matter to the Department or the Office if the person or entity has actual
812 notice that the same matter has already been reported to the Department or the Office. No person or
813 entity shall be obligated to report a health care provider who is participating in a professional program
814 as described in subsection B of § 8.01-581.16 unless there is a reasonable belief that the participant is
815 not competent to continue to practice or is a danger to himself or to the health and welfare of his
816 patients or the public.

817 B. The State Health Commissioner, Commissioner of Social Services, and Commissioner of
818 Behavioral Health and Developmental Services shall report to the Department any information of which
819 their agencies may become aware in the course of their duties that a health professional may be guilty
820 of fraudulent, unethical, or unprofessional conduct as defined by the pertinent licensing statutes and
821 regulations. However, the State Health Commissioner shall not be required to report information
822 reported to the Director of the Office of Licensure and Certification pursuant to this section to the
823 Department of Health Professions.

824 C. Any person making a report by this section, providing information pursuant to an investigation, or
825 testifying in a judicial or administrative proceeding as a result of such report shall be immune from any
826 civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious
827 intent.

828 D. Medical records or information learned or maintained in connection with an alcohol or drug
829 prevention function that is conducted, regulated, or directly or indirectly assisted by any department or
830 agency of the United States shall be exempt from the reporting requirements of this section to the extent
831 that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.

832 E. Any person who fails to make a report to the Department as required by this section shall be
833 subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the
834 assessment of such civil penalty to the Commissioner of Health, Commissioner of Social Services, or
835 Commissioner of Behavioral Health and Developmental Services, as appropriate. Any person assessed a
836 civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless
837 such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and
838 the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1-1
839 (~~§ 32.1-102.1 et seq.~~) of Chapter 4 of Title 32.1 unless such penalty has been paid.

840 § 54.1-2937.1. Retiree license.

841 A. The Board may issue a retiree license to any doctor of medicine, osteopathy, podiatry, or
842 chiropractic who holds an unrestricted, active license to practice in the Commonwealth upon receipt of a
843 request and submission of the fee required by the Board. A person to whom a retiree license has been
844 issued shall not be required to meet continuing competency requirements for the first biennial renewal of
845 such license.

846 B. A person to whom a retiree license has been issued shall only engage in the practice of medicine,
847 osteopathy, podiatry, or chiropractic for the purpose of providing (i) charity care, as defined in §
848 ~~32.1-102.1~~ 32.1-3, and (ii) health care services to patients in their residence for whom travel is a barrier
849 to receiving medical care.

850 **4. That the provisions of the first enactment of this act shall become effective on July 1, 2024.**

851 **5. That the provisions of the second enactment of this act shall become effective on July 1, 2025.**

852 **6. That the provisions of the third enactment of this act shall become effective on July 1, 2026.**

853 **7. That Article 1.1 (§§ 32.1-102.1 through 32.1-102.11) of Chapter 4 of Title 32.1 of the Code of**
854 **Virginia is repealed effective July 1, 2026.**