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SENATE BILL NO. 173

Offered January 10, 2024

Prefiled January 7, 2024

A BILL to amend and reenact §§ 4.1-1600, 8.01-225.03, 19.2-389, 32.1-127, as it is currently effective and as it shall become effective, 35.1-1, 36-99.5:1, 44-146.19, 51.5-182, 51.5-183, 54.1-3408, 63.2-100, 63.2-1700, 63.2-1701, 63.2-1705, 63.2-1706, 63.2-1708, 63.2-1709, 63.2-1709.2, 63.2-1710, 63.2-1710.2 through 63.2-1713, 63.2-1720, 63.2-1722, 63.2-1728 through 63.2-1731, and 63.2-1733 of the Code of Virginia, relating to adult day care centers; name change.

Patron—Craig

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-1600, 8.01-225.03, 19.2-389, 32.1-127, as it is currently effective and as it shall become effective, 35.1-1, 36-99.5:1, 44-146.19, 51.5-182, 51.5-183, 54.1-3408, 63.2-100, 63.2-1700, 63.2-1701, 63.2-1705, 63.2-1706, 63.2-1708, 63.2-1709, 63.2-1709.2, 63.2-1710, 63.2-1710.2 through 63.2-1713, 63.2-1720, 63.2-1722, 63.2-1728 through 63.2-1731, and 63.2-1733 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-1600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Dispense" means the same as that term is defined in § 54.1-3300.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmacist" means the same as that term is defined in § 54.1-3300.

"Pharmacy intern" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse practitioner jointly licensed by the Boards of Nursing and Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

59 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been
 60 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from
 61 the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks;
 62 or (iii) oil or cake made from the seeds of the plant.

63 **§ 8.01-225.03. Certain immunity for certain hospices, home care organizations, private providers,
 64 assisted living facilities, and adult day centers during a disaster under specific circumstances.**

65 A. As used in this section:

66 "Disaster" or "emergency" means a public health emergency related to the COVID-19 virus declared by
 67 the Governor pursuant to § 44-146.17 and set forth in Executive Order 51 (2020) on March 12, 2020.

68 B. In the absence of gross negligence or willful misconduct, any (i) hospice licensed pursuant to § 32.1-
 69 162.3, (ii) home care organization licensed pursuant to § 32.1-162.9, (iii) private provider licensed by the
 70 Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of
 71 Chapter 4 of Title 37.2, (iv) assisted living facility licensed pursuant to § 63.2-1701, or (v) adult day care
 72 center licensed pursuant to § 63.2-1701 that delivers care to or withholds care from a patient, resident, or
 73 person receiving services who is diagnosed as being or is believed to be infected with the COVID-19 virus
 74 shall not be liable for any injury or wrongful death of such patient, resident, or person receiving services
 75 arising from the delivery or withholding of care when the emergency and subsequent conditions caused by
 76 the emergency result in a lack of resources, attributable to the disaster, that render such hospice, home care
 77 organization, private provider licensed by the Department of Behavioral Health and Developmental Services,
 78 assisted living facility, or adult day care center unable to provide the level or manner of care that otherwise
 79 would have been required in the absence of the emergency and that resulted in the injury or wrongful death at
 80 issue.

81 C. The immunity provided by this section shall be in addition to, and not be in lieu of, any immunities
 82 provided in other state or federal law, including §§ 8.01-225 and 44-146.23.

83 D. The immunity provided by this section shall only apply to causes of action arising between March 12,
 84 2020, and such time as the declaration of a state of emergency related to the COVID-19 virus set forth in
 85 Executive Order 51 (2020) is no longer in effect.

86 **§ 19.2-389. Dissemination of criminal history record information.**

87 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,
 88 only to:

89 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of
 90 the administration of criminal justice and the screening of an employment application or review of
 91 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination
 92 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible
 93 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-
 94 136 shall include collective dissemination by electronic means every 30 days. For purposes of this
 95 subdivision, criminal history record information includes information sent to the Central Criminal Records
 96 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee
 97 of the State Police, a police department or sheriff's office that is a part of or administered by the
 98 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection
 99 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of
 100 the administration of criminal justice;

101 2. Such other individuals and agencies that require criminal history record information to implement a
 102 state or federal statute or executive order of the President of the United States or Governor that expressly
 103 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except
 104 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice
 105 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the
 106 charge has been recorded and no active prosecution of the charge is pending;

107 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
 108 services required for the administration of criminal justice pursuant to that agreement which shall specifically
 109 authorize access to data, limit the use of data to purposes for which given, and ensure the security and
 110 confidentiality of the data;

111 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant
 112 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of
 113 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

114 5. Agencies of state or federal government that are authorized by state or federal statute or executive order
 115 of the President of the United States or Governor to conduct investigations determining employment
 116 suitability or eligibility for security clearances allowing access to classified information;

117 6. Individuals and agencies where authorized by court order or court rule;

118 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,
 119 operated or controlled by any political subdivision, and any public service corporation that operates a public

120 transit system owned by a local government for the conduct of investigations of applicants for employment,
 121 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a
 122 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible
 123 with the nature of the employment, permit, or license under consideration;

124 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title
 125 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position
 126 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation
 127 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction
 128 record would be compatible with the nature of the employment under consideration;

129 8. Public or private agencies when authorized or required by federal or state law or interstate compact to
 130 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of
 131 that individual's household, with whom the agency is considering placing a child or from whom the agency is
 132 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis
 133 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further
 134 disseminated to any party other than a federal or state authority or court as may be required to comply with an
 135 express requirement of law;

136 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for
 137 the conduct of investigations of applicants for employment when such employment involves personal contact
 138 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the
 139 employment under consideration;

140 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,
 141 including, but not limited to, issuing visas and passports;

142 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at
 143 his cost, except that criminal history record information shall be supplied at no charge to a person who has
 144 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer
 145 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,
 146 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been
 147 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in §
 148 15.2-1713.1;

149 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare
 150 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative
 151 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such
 152 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to
 153 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further
 154 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social
 155 Services' representative or a federal or state authority or court as may be required to comply with an express
 156 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to
 157 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the
 158 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of §
 159 22.1-289.035 or § 22.1-289.039;

160 13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or
 161 who accept public school employment and those current school board employees for whom a report of arrest
 162 has been made pursuant to § 19.2-83.1;

163 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-
 164 4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the
 165 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article
 166 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

167 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of
 168 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
 169 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the
 170 limitations set out in subsection E;

171 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations
 172 of applicants for compensated employment in licensed assisted living facilities and licensed adult day care
 173 centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

174 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in §
 175 4.1-103.1;

176 18. The State Board of Elections and authorized officers and employees thereof and general registrars
 177 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter
 178 registration, limited to any record of felony convictions;

179 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
 180 designees for individuals who are committed to the custody of or being evaluated by the Commissioner

181 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-
182 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,
183 treatment, or discharge planning;

184 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action
185 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-
186 51.4, 18.2-266, or 18.2-266.1;

187 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
188 Department of Education, or the Department of Behavioral Health and Developmental Services for the
189 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

190 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
191 Department for the purpose of determining an individual's fitness for employment pursuant to departmental
192 instructions;

193 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary
194 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records
195 information on behalf of such governing boards or administrators pursuant to a written agreement with the
196 Department of State Police;

197 24. Public institutions of higher education and nonprofit private institutions of higher education for the
198 purpose of screening individuals who are offered or accept employment;

199 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
200 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
201 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat
202 to safety; however, no member of a threat assessment team shall redisclose any criminal history record
203 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose
204 that such disclosure was made to the threat assessment team;

205 26. Executive directors of community services boards or the personnel director serving the community
206 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored
207 residential service provider, permission to enter into a shared living arrangement with a person receiving
208 medical assistance services pursuant to a waiver, or permission for any person under contract with the
209 community services board to serve in a direct care position on behalf of the community services board
210 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

211 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
212 determining an individual's fitness for employment, approval as a sponsored residential service provider,
213 permission to enter into a shared living arrangement with a person receiving medical assistance services
214 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
215 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1
216 , and 37.2-607;

217 28. The Commissioner of Social Services for the purpose of locating persons who owe child support or
218 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,
219 address, demographics and social security number of the data subject shall be released;

220 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
221 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose
222 of determining if any applicant who accepts employment in any direct care position or requests approval as a
223 sponsored residential service provider, permission to enter into a shared living arrangement with a person
224 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with
225 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have
226 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or
227 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

228 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for
229 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et
230 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

231 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House Committee for
232 Courts of Justice for the purpose of determining if any person being considered for election to any judgeship
233 has been convicted of a crime;

234 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
235 determining an individual's fitness for employment in positions designated as sensitive under Department of
236 Human Resource Management policies developed pursuant to § 2.2-1201.1;

237 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
238 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent
239 Predators Act (§ 37.2-900 et seq.);

240 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,
241 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for

242 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased
243 laborers, and other visitors;

244 35. Any employer of individuals whose employment requires that they enter the homes of others, for the
245 purpose of screening individuals who apply for, are offered, or have accepted such employment;

246 36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers
247 of adult foster care and home-based services or (ii) any individual with whom the agency is considering
248 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the
249 restriction that the data shall not be further disseminated by the agency to any party other than a federal or
250 state authority or court as may be required to comply with an express requirement of law for such further
251 dissemination, subject to limitations set out in subsection G;

252 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
253 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or
254 have accepted a position related to the provision of transportation services to enrollees in the Medicaid
255 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
256 administered by the Department of Medical Assistance Services;

257 38. The State Corporation Commission for the purpose of investigating individuals who are current or
258 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter
259 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.
260 Notwithstanding any other provision of law, if an application is denied based in whole or in part on
261 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title
262 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant
263 or its designee;

264 39. The Department of Professional and Occupational Regulation for the purpose of investigating
265 individuals for initial licensure pursuant to § 54.1-2106.1;

266 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision
267 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the
268 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et
269 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

270 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

271 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
272 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

273 43. The Department of Education or its agents or designees for the purpose of screening individuals
274 seeking to enter into a contract with the Department of Education or its agents or designees for the provision
275 of child care services for which child care subsidy payments may be provided;

276 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a
277 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or
278 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

279 45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure
280 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

281 46. Administrators and board presidents of and applicants for licensure or registration as a child day
282 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
283 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
284 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
285 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility
286 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or
287 a federal or state authority or court as may be required to comply with an express requirement of law for such
288 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent
289 of Public Instruction's representative from issuing written certifications regarding the results of prior
290 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

291 47. The National Center for Missing and Exploited Children for the purpose of screening individuals who
292 are offered or accept employment or will be providing volunteer or contractual services with the National
293 Center for Missing and Exploited Children; and

294 48. Other entities as otherwise provided by law.

295 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested
296 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange
297 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on
298 whom a report has been made under the provisions of this chapter.

299 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
300 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
301 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy
302 of conviction data covering the person named in the request to the person making the request; however, such

303 person on whom the data is being obtained shall consent in writing, under oath, to the making of such
304 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as
305 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making
306 the request shall be furnished at his cost a certification to that effect.

307 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
308 section shall be limited to the purposes for which it was given and may not be disseminated further, except as
309 otherwise provided in subdivision A 46.

310 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history
311 record information for employment or licensing inquiries except as provided by law.

312 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange
313 prior to dissemination of any criminal history record information on offenses required to be reported to the
314 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.
315 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the
316 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal
317 justice agency to whom a request has been made for the dissemination of criminal history record information
318 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the
319 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses
320 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the
321 record as required by § 15.2-1722.

322 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
323 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for
324 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

325 F. Criminal history information provided to licensed assisted living facilities and licensed adult day care
326 centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any
327 offense specified in § 63.2-1720.

328 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited
329 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier
330 crime in § 19.2-392.02.

331 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
332 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
333 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the
334 request to the employer or prospective employer making the request, provided that the person on whom the
335 data is being obtained has consented in writing to the making of such request and has presented a photo-
336 identification to the employer or prospective employer. In the event no conviction data is maintained on the
337 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a
338 certification to that effect. The criminal history record search shall be conducted on forms provided by the
339 Exchange.

340 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
341 information pursuant to the rules of court for obtaining discovery or for review by the court.

342 **§ 32.1-127. (Effective until July 1, 2025) Regulations.**

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

348 B. Such regulations:

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

357 2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth
358 shall be on call at all times, though not necessarily physically present on the premises, at each hospital which
359 operates or holds itself out as operating an emergency service;

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

362 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal
363 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §

364 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS
 365 regulations for routine contact, whereby the provider's designated organ procurement organization certified
 366 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)
 367 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a
 368 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of
 369 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The
 370 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in
 371 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable
 372 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The
 373 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to
 374 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to
 375 donate. The individual making contact with the family shall have completed a course in the methodology for
 376 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved
 377 by the organ procurement organization and designed in conjunction with the tissue and eye bank community
 378 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of
 379 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
 380 organization in educating the staff responsible for contacting the organ procurement organization's personnel
 381 on donation issues, the proper review of death records to improve identification of potential donors, and the
 382 proper procedures for maintaining potential donors while necessary testing and placement of potential
 383 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the
 384 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative
 385 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant
 386 document, such as an advance directive, can be found;

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

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

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

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

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

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

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

422 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of
 423 the vaccination, that each certified nursing facility and nursing home provide or arrange for the
 424 administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal

425 vaccination, in accordance with the most recent recommendations of the Advisory Committee on
426 Immunization Practices of the Centers for Disease Control and Prevention;

427 13. Shall require that each nursing home and certified nursing facility register with the Department of
428 State Police to receive notice of the registration, reregistration, or verification of registration information of
429 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to
430 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or
431 facility is located, pursuant to § 9.1-914;

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

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

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

449 17. Shall require that each nursing home and certified nursing facility maintain liability insurance
450 coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal
451 to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses
452 resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall
453 result in revocation of the facility's license;

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

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

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

475 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a
476 policy governing determination of the medical and ethical appropriateness of proposed medical care, which
477 shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of
478 proposed medical care in cases in which a physician has determined proposed care to be medically or
479 ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is
480 medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by
481 the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the
482 proposed health care; and (iii) requirements for a written explanation of the decision reached by the
483 interdisciplinary medical review committee, which shall be included in the patient's medical record. Such
484 policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to
485 § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent

486 medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee
 487 meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical
 488 decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other
 489 remedies available at law, including seeking court review, provided that the patient, his agent, or the person
 490 authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the
 491 chief executive officer of the hospital within 14 days of the date on which the physician's determination that
 492 proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical
 493 record;

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

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

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

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

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

541 27. Shall require each hospital with an emergency department to establish a protocol for the treatment and
 542 discharge of individuals experiencing a substance use-related emergency, which shall include provisions for
 543 (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to
 544 identify medical interventions necessary for the treatment of the individual in the emergency department and
 545 (ii) recommendations for follow-up care following discharge for any patient identified as having a substance
 546 use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have

547 been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a)
548 the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of
549 § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or
550 other opioid antagonist used for overdose reversal, including information about accessing naloxone or other
551 opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy
552 operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or
553 other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing
554 order. Such protocols may also provide for referrals of individuals experiencing a substance use-related
555 emergency to peer recovery specialists and community-based providers of behavioral health services, or to
556 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

557 28. During a public health emergency related to COVID-19, shall require each nursing home and certified
558 nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from
559 the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid
560 Services and the Board. Such protocol shall include provisions describing (i) the conditions, including
561 conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and
562 community, under which in-person visits will be allowed and under which in-person visits will not be
563 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be
564 required to comply to protect the health and safety of the patients and staff of the nursing home or certified
565 nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff
566 support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing
567 home or certified nursing facility will take in the event of a technology failure, service interruption, or
568 documented emergency that prevents visits from occurring as required by this subdivision. Such protocol
569 shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where
570 appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a
571 provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided
572 that such waiver or limitation is included in the patient's health record; and (c) a requirement that each
573 nursing home and certified nursing facility publish on its website or communicate to each patient or the
574 patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing
575 facility's plan for providing visits to patients as required by this subdivision;

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

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

595 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients
596 who are minors available to such patients through a secure website shall make such health records available
597 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health
598 record available in a manner that prevents disclosure of information, the disclosure of which has been denied
599 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of
600 § 54.1-2969 has not been provided.

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

603 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for
604 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot
605 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be
606 contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated
607 clotting factor may be apprised of this contamination. Facilities which have identified a lot that is known to

608 be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the
609 contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each
610 recipient who received treatment from a known contaminated lot at the individual's last known address.

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

613 **§ 32.1-127. (Effective July 1, 2025) Regulations.**

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

619 B. Such regulations:

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

628 2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth
629 shall be on call at all times, though not necessarily physically present on the premises, at each hospital which
630 operates or holds itself out as operating an emergency service;

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

633 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal
634 law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. §
635 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS
636 regulations for routine contact, whereby the provider's designated organ procurement organization certified
637 by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii)
638 is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a
639 similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of
640 America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The
641 hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in
642 the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable
643 tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The
644 protocol shall ensure that the hospital collaborates with the designated organ procurement organization to
645 inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to
646 donate. The individual making contact with the family shall have completed a course in the methodology for
647 approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved
648 by the organ procurement organization and designed in conjunction with the tissue and eye bank community
649 and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of
650 the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
651 organization in educating the staff responsible for contacting the organ procurement organization's personnel
652 on donation issues, the proper review of death records to improve identification of potential donors, and the
653 proper procedures for maintaining potential donors while necessary testing and placement of potential
654 donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the
655 family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative
656 officer of the hospital or his designee knows of such opposition, and no donor card or other relevant
657 document, such as an advance directive, can be found;

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

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

669 substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the
670 community services board of the jurisdiction in which the woman resides to appoint a discharge plan
671 manager. The community services board shall implement and manage the discharge plan;

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

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

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

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

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

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

698 13. Shall require that each nursing home and certified nursing facility register with the Department of
699 State Police to receive notice of the registration, reregistration, or verification of registration information of
700 any person required to register with the Sex Offender and Crimes Against Minors Registry pursuant to
701 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in which the home or
702 facility is located, pursuant to § 9.1-914;

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

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

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

720 17. Shall require that each nursing home and certified nursing facility maintain liability insurance
721 coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal
722 to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses
723 resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall
724 result in revocation of the facility's license;

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

728 19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit
729 with the facility following the discharge or death of a patient, other than entrance-related fees paid to a

730 continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the
731 discharged patient or, in the case of the death of a patient, the person administering the person's estate in
732 accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

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

746 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a
747 policy governing determination of the medical and ethical appropriateness of proposed medical care, which
748 shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of
749 proposed medical care in cases in which a physician has determined proposed care to be medically or
750 ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is
751 medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by
752 the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the
753 proposed health care; and (iii) requirements for a written explanation of the decision reached by the
754 interdisciplinary medical review committee, which shall be included in the patient's medical record. Such
755 policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to
756 § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent
757 medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee
758 meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical
759 decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other
760 remedies available at law, including seeking court review, provided that the patient, his agent, or the person
761 authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the
762 chief executive officer of the hospital within 14 days of the date on which the physician's determination that
763 proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical
764 record;

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

785 23. Shall require that each hospital establish a protocol requiring that, before a health care provider
786 arranges for air medical transportation services for a patient who does not have an emergency medical
787 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized
788 representative with written or electronic notice that the patient (i) may have a choice of transportation by an
789 air medical transportation provider or medically appropriate ground transportation by an emergency medical
790 services provider and (ii) will be responsible for charges incurred for such transportation in the event that the

791 provider is not a contracted network provider of the patient's health insurance carrier or such charges are not
792 otherwise covered in full or in part by the patient's health insurance plan;

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

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

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

812 27. Shall require each hospital with an emergency department to establish a protocol for the treatment and
813 discharge of individuals experiencing a substance use-related emergency, which shall include provisions for
814 (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies to
815 identify medical interventions necessary for the treatment of the individual in the emergency department and
816 (ii) recommendations for follow-up care following discharge for any patient identified as having a substance
817 use disorder, depression, or mental health disorder, as appropriate, which may include, for patients who have
818 been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients, (a)
819 the dispensing of naloxone or other opioid antagonist used for overdose reversal pursuant to subsection X of
820 § 54.1-3408 at discharge or (b) issuance of a prescription for and information about accessing naloxone or
821 other opioid antagonist used for overdose reversal, including information about accessing naloxone or other
822 opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy
823 operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or
824 other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing
825 order. Such protocols may also provide for referrals of individuals experiencing a substance use-related
826 emergency to peer recovery specialists and community-based providers of behavioral health services, or to
827 providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

828 28. During a public health emergency related to COVID-19, shall require each nursing home and certified
829 nursing facility to establish a protocol to allow each patient to receive visits, consistent with guidance from
830 the Centers for Disease Control and Prevention and as directed by the Centers for Medicare and Medicaid
831 Services and the Board. Such protocol shall include provisions describing (i) the conditions, including
832 conditions related to the presence of COVID-19 in the nursing home, certified nursing facility, and
833 community, under which in-person visits will be allowed and under which in-person visits will not be
834 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will be
835 required to comply to protect the health and safety of the patients and staff of the nursing home or certified
836 nursing facility; (iii) the types of technology, including interactive audio or video technology, and the staff
837 support necessary to ensure visits are provided as required by this subdivision; and (iv) the steps the nursing
838 home or certified nursing facility will take in the event of a technology failure, service interruption, or
839 documented emergency that prevents visits from occurring as required by this subdivision. Such protocol
840 shall also include (a) a statement of the frequency with which visits, including virtual and in-person, where
841 appropriate, will be allowed, which shall be at least once every 10 calendar days for each patient; (b) a
842 provision authorizing a patient or the patient's personal representative to waive or limit visitation, provided
843 that such waiver or limitation is included in the patient's health record; and (c) a requirement that each
844 nursing home and certified nursing facility publish on its website or communicate to each patient or the
845 patient's authorized representative, in writing or via electronic means, the nursing home's or certified nursing
846 facility's plan for providing visits to patients as required by this subdivision;

847 29. Shall require each hospital, nursing home, and certified nursing facility to establish and implement
848 policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient,
849 in accordance with such regulations, while receiving inpatient services. Such policies shall ensure protection
850 of health information in accordance with the requirements of the federal Health Insurance Portability and
851 Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the purposes of this subdivision,

852 "intelligent personal assistant" means a combination of an electronic device and a specialized software
 853 application designed to assist users with basic tasks using a combination of natural language processing and
 854 artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants";

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

866 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of patients
 867 who are minors available to such patients through a secure website shall make such health records available
 868 to such patient's parent or guardian through such secure website, unless the hospital cannot make such health
 869 record available in a manner that prevents disclosure of information, the disclosure of which has been denied
 870 pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance with subsection E of
 871 § 54.1-2969 has not been provided; and

872 32. Shall require each certified nursing facility eligible to participate in the Virginia Medicaid Nursing
 873 Facility Value-Based Purchasing (VBP) program, as referenced in Chapter 2 of the Acts of Assembly of
 874 2022, Special Session I, to provide at least 3.08 hours of case mix-adjusted total nurse staffing hours per
 875 resident per day on average as determined annually by the Department of Medical Assistance Services for use
 876 in the VBP program, utilizing job codes for the calculation of total nurse staffing hours per resident per day
 877 following the Centers for Medicare and Medicaid Services (CMS) definitions as of January 1, 2022, used for
 878 similar purposes and including certified nursing assistants, licensed practical nurses, and registered nurses.
 879 No additional reporting shall be required by a certified nursing facility under this subdivision.

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

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

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

892 **§ 35.1-1. Definitions.**

893 As used in this title, unless the context requires a different meaning:

894 "Bed-and-breakfast operation" means a residential-type establishment that provides (i) two or more rental
 895 accommodations for transient guests and food service to a maximum of 18 transient guests on any single day
 896 for five or more days in any calendar year or (ii) at least one rental accommodation for transient guests and
 897 food service to a maximum of 18 transient guests on any single day for 30 or more days in any calendar year.

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

899 "Campground" means any area, place, parcel, or tract of land, by whatever name called, on which three or
 900 more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or
 901 in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the
 902 campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants,
 903 restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping
 904 resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park
 905 for manufactured homes as defined in this section and in §§ 32.1-203 and 36-85.3, or a construction camp,
 906 storage area for unoccupied camping units, or property upon which the individual owner may choose to camp
 907 and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary
 908 facilities within his property lines.

909 "Camping unit" means any device or vehicular type structure for use as temporary living quarters or
 910 shelter during periods of recreation, vacation, leisure time, or travel, including any tent, tent trailer, travel
 911 trailer, camping trailer, pickup camper, or motor home.

912 "Campsite" means any plot of ground within a campground used or intended for occupation by the

913 camping unit.

914 "Certified food protection manager" means a person who has demonstrated proficiency in food safety
 915 issues, regulations, and techniques in maintaining a safe-food environment by passing a test and receiving a
 916 certification as part of a program that is accredited by the Board.

917 "Commissioner" means the State Health Commissioner.

918 "Department" means the State Department of Health.

919 "Hotel" means any place offering to the public for compensation transitory lodging or sleeping
 920 accommodations, overnight or otherwise, including facilities known by varying nomenclatures or
 921 designations as hotels, motels, travel lodges, tourist homes, or hostels.

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

923 "Restaurant" means:

924 1. Any place where food is prepared for service to the public on or off the premises, or any place where
 925 food is served, including lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns,
 926 delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing
 927 homes, dining accommodations of public and private schools and institutions of higher education, and
 928 kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68.

929 2. Any place or operation that prepares or stores food for distribution to persons of the same business
 930 operation or of a related business operation for service to the public, including operations preparing or storing
 931 food for catering services, push cart operations, hotdog stands, and other mobile points of service.

932 3. Mobile points of service to which food is distributed by a place or operation described in subdivision 2
 933 unless the point of service and of consumption is in a private residence.

934 4. Any place or operation that prepares or stores food for distribution to child or adult day care centers or
 935 schools, regardless of whether the receiving day care center or school holds a restaurant license.

936 "Restaurant" does not include any place manufacturing packaged or canned foods that are distributed to
 937 grocery stores or other similar retailers for sale to the public.

938 "Summer camp" means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if operated
 939 as one place or establishment, or any other place or establishment, public or private, together with the land
 940 and waters adjacent thereto, that is operated or used in this Commonwealth for the entertainment, education,
 941 recreation, religious instruction or activities, physical education, or health of persons under 18 years of age
 942 who are not related to the operator of such place or establishment by blood or marriage within the third
 943 degree of consanguinity or affinity, if 12 or more such persons at any one time are accommodated,
 944 gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

945 **§ 36-99.5:1. Smoke alarms and other fire detection and suppression systems in assisted living**
 946 **facilities, adult day centers and nursing homes and facilities.**

947 A. Battery operated or AC powered smoke alarm devices shall be installed in all assisted living facilities
 948 and adult day care centers licensed by the Department of Social Services, regardless of when the building was
 949 constructed. The location and installation of the smoke alarms shall be determined by the Building Code.

950 The licensee shall obtain a certificate of compliance from the building official of the locality in which the
 951 facility or center is located, or in the case of state-owned buildings, from the Department of General Services.

952 The licensee shall maintain the smoke alarm devices in good working order.

953 B. The Board of Housing and Community Development shall promulgate regulations in accordance with
 954 the Administrative Process Act (§ 2.2-4000 et seq.) establishing standards for requiring (i) smoke alarms and
 955 (ii) such other fire detection and suppression systems as deemed necessary by the Board to increase the safety
 956 of persons in assisted living facilities, residential dwelling units designed or developed and marketed to
 957 senior citizens, nursing homes, and nursing facilities. All nursing homes and nursing facilities that are already
 958 equipped with sprinkler systems shall comply with regulations relating to smoke alarms.

959 **§ 44-146.19. Powers and duties of political subdivisions.**

960 A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by
 961 the Department of Emergency Management and be responsible for local disaster mitigation, preparedness,
 962 response, and recovery. Each political subdivision shall maintain in accordance with state disaster
 963 preparedness plans and programs an agency of emergency management which, except as otherwise provided
 964 under this chapter, has jurisdiction over and services the entire political subdivision.

965 B. Each political subdivision shall have a director of emergency management who, after the term of the
 966 person presently serving in this capacity has expired and in the absence of an executive order by the
 967 Governor, shall be the following:

968 1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency
 969 management with consent of council;

970 2. In the case of a county, a member of the board of supervisors selected by the board or the chief
 971 administrative officer for the county, who shall appoint a coordinator of emergency management with the
 972 consent of the governing body;

973 3. A coordinator of emergency management shall be appointed by the council of any town to ensure

974 integration of its organization into the county emergency management organization;

975 4. In the case of the Towns of Chincoteague and West Point and of towns with a population in excess of
976 5,000 having an emergency management organization separate from that of the county, the mayor or town
977 manager shall appoint a coordinator of emergency services with consent of council;

978 5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a
979 director of emergency management, with the consent of the governing body, who shall appoint a coordinator
980 of emergency management with the consent of the governing body.

981 C. Whenever the Governor has declared a state of emergency, each political subdivision within the
982 disaster area may, under the supervision and control of the Governor or his designated representative, control,
983 restrict, allocate, or regulate the use, sale, production, and distribution of food, fuel, clothing, and other
984 commodities, materials, goods, services, and resource systems which fall only within the boundaries of that
985 jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into
986 contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and
987 safety of persons and property, and provide emergency assistance to the victims of such disaster. In
988 exercising the powers vested under this section, under the supervision and control of the Governor, the
989 political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by
990 law (except mandatory constitutional requirements) pertaining to the performance of public work, entering
991 into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of
992 supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

993 D. The director of each local organization for emergency management may, in collaboration with (i) other
994 public and private agencies within the Commonwealth or (ii) other states or localities within other states,
995 develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too
996 great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it
997 shall be the duty of each local organization for emergency management to render assistance in accordance
998 with the provisions of such mutual aid arrangements. Except where a mutual aid arrangement for reciprocal
999 assistance exists between localities, no locality shall prohibit another locality from providing emergency
1000 medical services across local boundaries solely on the basis of financial considerations.

1001 E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional
1002 emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all
1003 local agencies and shall establish a chain of command, and a provision that the Department of Criminal
1004 Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to
1005 deploy assistance in the event of an emergency as defined in the emergency response plan when there are
1006 victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal
1007 Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be
1008 victims, and the plan shall also contain current contact information for both agencies. Such plan shall also
1009 contain provisions to ensure that the plan is applied equitably and that the needs of minority and vulnerable
1010 communities are met during emergencies. Every four years, each local and interjurisdictional agency shall
1011 conduct a comprehensive review and revision of its emergency operations plan to ensure that the plan
1012 remains current, and the revised plan shall be formally adopted by the locality's governing body. In the case
1013 of an interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the
1014 localities encompassed by the agency. Each political subdivision having a nuclear power station or other
1015 nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency
1016 Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear
1017 accidents at such station or facility.

1018 F. All political subdivisions shall provide (i) an annually updated emergency management assessment and
1019 (ii) data related to emergency sheltering capabilities, including emergency shelter locations, evacuation
1020 zones, capacity by person, medical needs capacity, current wind rating, standards compliance, backup power,
1021 and lead agency for staffing, to the State Coordinator of Emergency Management on or before August 1 of
1022 each year.

1023 G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and warning
1024 plan for the dissemination of adequate and timely warning to the public in the event of an emergency or
1025 threatened disaster. The governing body of the locality, in consultation with its local emergency management
1026 organization, shall amend its local emergency operations plan that may include rules for the operation of its
1027 alert and warning system, to include sirens, Emergency Alert System (EAS), NOAA Weather Radios, or
1028 other personal notification systems, amateur radio operators, or any combination thereof.

1029 H. Localities that have established an agency of emergency management shall have authority to require
1030 the review of, and suggest amendments to, the emergency plans of nursing homes, assisted living facilities,
1031 adult day care centers, and child day care centers that are located within the locality.

1032 **§ 51.5-182. Responsibility for complaints and investigations.**

1033 In addition to its responsibilities for complaints regarding services provided by long-term care facilities
1034 pursuant to the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended, the Office of the State Long-

1035 Term Care Ombudsman shall investigate complaints regarding services provided by (i) licensed adult day
 1036 care centers as defined in § 63.2-100, (ii) home care organizations as defined in § 32.1-162.7, (iii) hospice
 1037 facilities as defined in § 32.1-162.1, (iv) providers as defined in § 37.2-403, (v) state hospitals operated by the
 1038 Department of Behavioral Health and Developmental Services, and (vi) an area agency on aging or any
 1039 private nonprofit or proprietary agency providing services.

1040 Nothing in this section shall affect the services provided by local departments of social services pursuant
 1041 to § 63.2-1605.

1042 **§ 51.5-183. Access to clients, patients, individuals, providers, and records by Office of the State**
 1043 **Long-Term Care Ombudsman; interference, retaliation, and reprisals against complainants.**

1044 A. The Office of the State Long-Term Care Ombudsman pursuant to the Older Americans Act, 42 U.S.C.
 1045 § 3001 et seq., shall, in the performance of its functions, responsibilities, and duties, have access to (i)
 1046 licensed assisted living facilities and adult day care centers as those terms are defined in § 63.2-100, (ii) home
 1047 care organizations as defined in § 32.1-162.7, (iii) hospice facilities as defined in § 32.1-162.1, (iv) certified
 1048 nursing facilities and nursing homes as those terms are defined in § 32.1-123, (v) providers as defined in §
 1049 37.2-403, (vi) state hospitals operated by the Department of Behavioral Health and Developmental Services,
 1050 and (vii) providers of services by an area agency on aging or any private nonprofit or proprietary agency
 1051 providing services; the clients, patients, and individuals receiving services; and the records of such clients,
 1052 patients, and individuals whenever the Office of the State Long-Term Care Ombudsman has the consent of
 1053 the client, patient, or individual receiving services or his legal representative. However, if a client, patient, or
 1054 individual receiving services is unable to consent to the review of his medical and social records and has no
 1055 legal representative, and access to the records is necessary to investigate a complaint, access shall be granted
 1056 to the extent necessary to conduct the investigation. Further, access shall be granted to the Office of the State
 1057 Long-Term Care Ombudsman if a legal representative of the client, patient, or individual receiving services
 1058 refuses to give consent and the Office of the State Long-Term Care Ombudsman has reasonable cause to
 1059 believe that the legal representative is not acting in the best interests of the client, patient, or individual
 1060 receiving services. Notwithstanding the provisions of § 32.1-125.1, the Office of the State Long-Term Care
 1061 Ombudsman shall have access to state hospitals in accordance with this section. Access to patients, residents,
 1062 and individuals receiving services and their records and to providers shall be available at any time during a
 1063 provider's regular business or visiting hours and at any other time when access is required by the
 1064 circumstances to be investigated. Records that are confidential under federal or state law shall be maintained
 1065 as confidential by the Office of the State Long-Term Care Ombudsman and shall not be further disclosed,
 1066 except as permitted by law. However, notwithstanding the provisions of this section, there shall be no right of
 1067 access to privileged communications pursuant to § 8.01-581.17.

1068 B. No provider, entity, or person may interfere with, retaliate against, or subject to reprisals a person who
 1069 in good faith complains or provides information to, or otherwise cooperates with, the Office of the State
 1070 Long-Term Care Ombudsman or any of its representatives or designees. The Commissioner shall promulgate
 1071 regulations regarding the investigation of allegations of interference, retaliation, or reprisals and the
 1072 implementation of sanctions with respect to such interference, retaliation, or reprisals as required under the
 1073 Older Americans Act, 42 U.S.C. § 3001 et seq.

1074 **§ 54.1-3408. Professional use by practitioners.**

1075 A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine, a licensed advanced
 1076 practice registered nurse pursuant to § 54.1-2957.01, a licensed certified midwife pursuant to § 54.1-2957.04,
 1077 a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5
 1078 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good
 1079 faith for medicinal or therapeutic purposes within the course of his professional practice. A licensed midwife
 1080 pursuant to § 54.1-2957.7 shall only obtain, possess, and administer controlled substances in good faith for
 1081 medicinal or therapeutic purposes within the course of his professional practice.

1082 B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription
 1083 as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or
 1084 devices to be administered by:

1085 1. A nurse, physician assistant, or intern under his direction and supervision;

1086 2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or
 1087 facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of
 1088 Behavioral Health and Developmental Services who administer drugs under the control and supervision of
 1089 the prescriber or a pharmacist;

1090 3. Emergency medical services personnel certified and authorized to administer drugs and devices
 1091 pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to
 1092 an oral or written order or standing protocol;

1093 4. Persons who are employed or engaged at a medical care facility, as defined in § 32.1-3, who have a
 1094 valid emergency medical services provider certification issued by the Board of Health as a requirement of
 1095 being employed or engaged at the medical care facility within the scope of such certification, pursuant to an

1096 oral or written order or standing protocol to administer drugs and devices at the medical care facility; or
 1097 5. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled
 1098 substances used in inhalation or respiratory therapy.

1099 C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or
 1100 federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a
 1101 nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the
 1102 diagnosis or treatment of disease.

1103 D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of
 1104 his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to
 1105 possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii)
 1106 heparin and sterile normal saline to use for the maintenance of intravenous access lines.

1107 Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may
 1108 possess and administer epinephrine in emergency cases of anaphylactic shock.

1109 Pursuant to an order or standing protocol issued by the prescriber within the course of his professional
 1110 practice, any school nurse, school board employee, employee of a local governing body, or employee of a
 1111 local health department who is authorized by a prescriber and trained in the administration of epinephrine
 1112 may possess and administer epinephrine.

1113 Pursuant to an order or standing protocol that shall be issued by the local health director within the course
 1114 of his professional practice, any school nurse, licensed athletic trainer under contract with a local school
 1115 division, school board employee, employee of a local governing body, or employee of a local health
 1116 department who is authorized by the local health director and trained in the administration of albuterol
 1117 inhalers and valved holding chambers or nebulized albuterol may possess or administer an albuterol inhaler
 1118 and a valved holding chamber or nebulized albuterol to a student diagnosed with a condition requiring an
 1119 albuterol inhaler or nebulized albuterol when the student is believed to be experiencing or about to experience
 1120 an asthmatic crisis.

1121 Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional
 1122 practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the
 1123 Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as
 1124 administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in
 1125 the administration of (a) epinephrine may possess and administer epinephrine and (b) albuterol inhalers or
 1126 nebulized albuterol may possess or administer an albuterol inhaler or nebulized albuterol to a student
 1127 diagnosed with a condition requiring an albuterol inhaler or nebulized albuterol when the student is believed
 1128 to be experiencing or about to experience an asthmatic crisis.

1129 Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional
 1130 practice, any nurse at an early childhood care and education entity, employee at the entity, or employee of a
 1131 local health department who is authorized by a prescriber and trained in the administration of epinephrine
 1132 may possess and administer epinephrine.

1133 Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional
 1134 practice, any employee of a public institution of higher education or a private institution of higher education
 1135 who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer
 1136 epinephrine.

1137 Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional
 1138 practice, any employee of an organization providing outdoor educational experiences or programs for youth
 1139 who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer
 1140 epinephrine.

1141 Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional
 1142 practice, and in accordance with policies and guidelines established by the Department of Health, such
 1143 prescriber may authorize any employee of a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) of
 1144 Title 35.1 to possess and administer epinephrine on the premises of the restaurant at which the employee is
 1145 employed, provided that such person is trained in the administration of epinephrine.

1146 Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of
 1147 a provider licensed by the Department of Behavioral Health and Developmental Services or a person
 1148 providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health
 1149 and Developmental Services may possess and administer epinephrine, provided such person is authorized and
 1150 trained in the administration of epinephrine.

1151 Pursuant to an order or standing protocol issued by the prescriber within the course of his professional
 1152 practice, any employee of a public place, as defined in § 15.2-2820, who is authorized by a prescriber and
 1153 trained in the administration of epinephrine may possess and administer epinephrine.

1154 Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his
 1155 professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for
 1156 administration in treatment of emergency medical conditions.

1157 E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of

1158 his professional practice, such prescriber may authorize licensed physical therapists to possess and administer
1159 topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

1160 F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of
1161 his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer
1162 topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen and IV saline for use in
1163 emergency situations; subcutaneous lidocaine for wound closure; epinephrine for use in emergency cases of
1164 anaphylactic shock; and naloxone or other opioid antagonist for overdose reversal.

1165 G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of
1166 his professional practice, and in accordance with policies and guidelines established by the Department of
1167 Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses
1168 under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative
1169 (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent
1170 with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing
1171 transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently
1172 implemented standards of the Occupational Safety and Health Administration and the Department of Labor
1173 and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines.
1174 Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be
1175 administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The
1176 prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in
1177 the practice and principles underlying tuberculin screening.

1178 The Health Commissioner or his designee may authorize registered nurses, acting as agents of the
1179 Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein
1180 derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies
1181 established by the Department of Health.

1182 H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
1183 professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an
1184 employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by
1185 the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the
1186 Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist
1187 with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who
1188 requires insulin injections during the school day or for whom glucagon has been prescribed for the
1189 emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, an
1190 advanced practice registered nurse, a physician, or a physician assistant is not present to perform the
1191 administration of the medication.

1192 Pursuant to a written order or standing protocol issued by the prescriber within the course of his
1193 professional practice, such prescriber may authorize an employee of a public institution of higher education
1194 or a private institution of higher education who is trained in the administration of insulin and glucagon to
1195 assist with the administration of insulin or administration of glucagon to a student diagnosed as having
1196 diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency
1197 treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, an advanced
1198 practice registered nurse, a physician, or a physician assistant is not present to perform the administration of
1199 the medication.

1200 Pursuant to a written order issued by the prescriber within the course of his professional practice, such
1201 prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and
1202 Developmental Services or a person providing services pursuant to a contract with a provider licensed by the
1203 Department of Behavioral Health and Developmental Services to assist with the administration of insulin or
1204 to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for
1205 whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee
1206 or person providing services has been trained in the administration of insulin and glucagon.

1207 I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the
1208 administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not
1209 physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under
1210 the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established
1211 protocols of the Department of Health may authorize the administration of vaccines to any person by a
1212 pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support
1213 certificate issued by the Commissioner of Health under the direction of an operational medical director when
1214 the prescriber is not physically present. The emergency medical services provider shall provide
1215 documentation of the vaccines to be recorded in the Virginia Immunization Information System.

1216 J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision
1217 by either a dental hygienist or by an authorized agent of the dentist.

1218 Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the

1219 course of his professional practice, a dentist may authorize a dental hygienist under his general supervision,
 1220 as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to
 1221 possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied
 1222 antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug
 1223 approved by the Board of Dentistry.

1224 In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI
 1225 nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local
 1226 anesthesia.

1227 K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of
 1228 his professional practice, such prescriber may authorize registered professional nurses certified as sexual
 1229 assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess
 1230 and administer preventive medications for victims of sexual assault as recommended by the Centers for
 1231 Disease Control and Prevention.

1232 L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed
 1233 a training program for this purpose approved by the Board of Nursing and who administers such drugs in
 1234 accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration,
 1235 and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record
 1236 keeping, when the drugs administered would be normally self-administered by (i) an individual receiving
 1237 services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a
 1238 resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility
 1239 approved by the Board or Department of Juvenile Justice for the placement of children in need of services or
 1240 delinquent or alleged delinquent youth; (iv) a program participant of an adult ~~day-care~~ day center licensed by
 1241 the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local
 1242 government whose primary purpose is not to provide health care services; (vi) a resident of a private
 1243 children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services,
 1244 Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student
 1245 in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

1246 In addition, this section shall not prevent a person who has successfully completed a training program for
 1247 the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been
 1248 evaluated by a registered nurse as having demonstrated competency in administration of drugs via
 1249 percutaneous gastrostomy tube from administering drugs to a person receiving services from a program
 1250 licensed by the Department of Behavioral Health and Developmental Services to such person via
 1251 percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous
 1252 gastrostomy tube shall be evaluated semiannually by a registered nurse.

1253 M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of
 1254 Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living
 1255 facility licensed by the Department of Social Services. A registered medication aide shall administer drugs
 1256 pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and
 1257 manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to
 1258 security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan;
 1259 and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

1260 N. In addition, this section shall not prevent the administration of drugs by a person who administers such
 1261 drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of
 1262 administration and with written authorization of a parent, and in accordance with school board regulations
 1263 relating to training, security and record keeping, when the drugs administered would be normally self-
 1264 administered by a student of a Virginia public school. Training for such persons shall be accomplished
 1265 through a program approved by the local school boards, in consultation with the local departments of health.

1266 O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child
 1267 day program as defined in § 22.1-289.02 and regulated by the Board of Education or a local government
 1268 pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as
 1269 administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily
 1270 completed a training program for this purpose approved by the Board of Nursing and taught by a registered
 1271 nurse, a licensed practical nurse, an advanced practice registered nurse, a physician assistant, a doctor of
 1272 medicine or osteopathic medicine, or a pharmacist; (b) has obtained written authorization from a parent or
 1273 guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the
 1274 prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers
 1275 only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that
 1276 would normally be self-administered by the child or student, or administered by a parent or guardian to the
 1277 child or student.

1278 P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by
 1279 persons if they are authorized by the State Health Commissioner in accordance with protocols established by

1280 the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a
1281 state of emergency, the United States Secretary of Health and Human Services has issued a declaration of an
1282 actual or potential bioterrorism incident or other actual or potential public health emergency, or the Board of
1283 Health has made an emergency order pursuant to § 32.1-13 for the purpose of suppressing nuisances
1284 dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to
1285 the public life and health and for the limited purpose of administering vaccines as an approved
1286 countermeasure for such communicable, contagious, and infectious diseases; (ii) it is necessary to permit the
1287 provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely
1288 administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or
1289 devices under the direction, control, and supervision of the State Health Commissioner.

1290 Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed
1291 individuals to a person in his private residence.

1292 R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his
1293 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to
1294 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid
1295 prescriptions.

1296 S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care
1297 technicians who are certified by an organization approved by the Board of Health Professions or persons
1298 authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course
1299 of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site
1300 anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of
1301 facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a
1302 licensed physician, an advanced practice registered nurse, or a physician assistant and under the immediate
1303 and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a
1304 patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the
1305 clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee
1306 is identified as a "trainee" while working in a renal dialysis facility.

1307 The dialysis care technician or dialysis patient care technician administering the medications shall have
1308 demonstrated competency as evidenced by holding current valid certification from an organization approved
1309 by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

1310 T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be
1311 authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

1312 U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber
1313 may authorize the administration of controlled substances by personnel who have been properly trained to
1314 assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous,
1315 intrathecal, or epidural administration and the prescriber remains responsible for such administration.

1316 V. A physician assistant, nurse, dental hygienist, or authorized agent of a doctor of medicine, osteopathic
1317 medicine, or dentistry may possess and administer topical fluoride varnish pursuant to an oral or written order
1318 or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

1319 W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize
1320 the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed
1321 practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical
1322 services provider who holds an advanced life support certificate issued by the Commissioner of Health when
1323 the prescriber is not physically present.

1324 X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by
1325 a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the
1326 dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or
1327 written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the
1328 Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a
1329 health care provider providing services in a hospital emergency department, and emergency medical services
1330 personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for
1331 overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to
1332 this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to
1333 a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-
1334 enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of
1335 the Office of the Chief Medical Examiner, employees of the Department of General Services Division of
1336 Consolidated Laboratory Services, employees of the Department of Corrections designated by the Director of
1337 the Department of Corrections or designated as probation and parole officers or as correctional officers as
1338 defined in § 53.1-1, employees of the Department of Juvenile Justice designated as probation and parole
1339 officers or as juvenile correctional officers, employees of regional jails, school nurses, local health
1340 department employees that are assigned to a public school pursuant to an agreement between the local health

1341 department and the school board, other school board employees or individuals contracted by a school board
 1342 to provide school health services, and firefighters may also possess and administer naloxone or other opioid
 1343 antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for
 1344 overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order
 1345 issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board
 1346 of Pharmacy in consultation with the Board of Medicine and the Department of Health.

1347 Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a
 1348 prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the
 1349 dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or
 1350 written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the
 1351 Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, any person
 1352 may possess and administer naloxone or other opioid antagonist used for overdose reversal, other than
 1353 naloxone in an injectable formulation with a hypodermic needle or syringe, in accordance with protocols
 1354 developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of
 1355 Health.

1356 Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an
 1357 organization that provides services to individuals at risk of experiencing an opioid overdose or training in the
 1358 administration of naloxone for overdose reversal may dispense naloxone, provided that such dispensing is (i)
 1359 pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the
 1360 Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person
 1361 acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle
 1362 or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental
 1363 Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic
 1364 needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The
 1365 Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The
 1366 dispensing may occur at a site other than that of the controlled substance registration provided the entity
 1367 possessing the controlled substances registration maintains records in accordance with regulations of the
 1368 Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this
 1369 subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of
 1370 obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection
 1371 may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about
 1372 to experience a life-threatening opioid overdose.

1373 Z. A person who is not otherwise authorized to administer naloxone or other opioid antagonist used for
 1374 overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person
 1375 who is believed to be experiencing or about to experience a life-threatening opioid overdose.

1376 AA. Pursuant to a written order or standing protocol issued by the prescriber within the course of his
 1377 professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an
 1378 employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by
 1379 the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the
 1380 Virginia Council for Private Education who is trained in the administration of injected medications for the
 1381 treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such
 1382 medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed
 1383 to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a
 1384 licensed nurse, an advanced practice registered nurse, a physician, or a physician assistant is not present to
 1385 perform the administration of the medication.

1386 **§ 63.2-100. Definitions.**

1387 As used in this title, unless the context requires a different meaning:

1388 "Abused or neglected child" means any child less than 18 years of age:

1389 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict,
 1390 or allows to be created or inflicted upon such child a physical or mental injury by other than accidental
 1391 means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions,
 1392 including, but not limited to, a child who is with his parent or other person responsible for his care either (i)
 1393 during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the
 1394 unlawful sale of such substance by that child's parents or other person responsible for his care, where such
 1395 manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

1396 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
 1397 his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in
 1398 accordance with the tenets and practices of a recognized church or religious denomination shall for that
 1399 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal
 1400 authority for the child or, in the absence of parents with legal authority for the child, any person with legal
 1401 authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition

1402 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or
 1403 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently
 1404 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person
 1405 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other
 1406 person with legal authority and the child believe in good faith that such decision is in the child's best interest.
 1407 No child whose parent or other person responsible for his care allows the child to engage in independent
 1408 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
 1409 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
 1410 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
 1411 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
 1412 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
 1413 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-
 1414 278.4;

1415 3. Whose parents or other person responsible for his care abandons such child;

1416 4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person,
 1417 commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation
 1418 of the law;

1419 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
 1420 physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

1421 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
 1422 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in §
 1423 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other
 1424 person responsible for his care knows has been convicted of an offense against a minor for which registration
 1425 is required as a Tier III offender pursuant to § 9.1-902; or

1426 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the
 1427 Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims of
 1428 Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

1429 If a civil proceeding under this title is based solely on the parent having left the child at a hospital or
 1430 emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the
 1431 child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an
 1432 attended emergency medical services agency that employs emergency medical services providers, or (iii) a
 1433 newborn safety device located at and operated by such hospital or emergency medical services agency. For
 1434 purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find
 1435 such a child is a neglected child upon the ground of abandonment.

1436 "Adoptive home" means any family home selected and approved by a parent, local board or a licensed
 1437 child-placing agency for the placement of a child with the intent of adoption.

1438 "Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing
 1439 agency in an approved home for the purpose of adoption.

1440 "Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable
 1441 confinement of an adult as defined in § 63.2-1603.

1442 "Adult day care center" means any facility that is either operated for profit or that desires licensure and
 1443 that provides supplementary care and protection during only a part of the day to four or more adults who are
 1444 aged or infirm or who have disabilities and who reside elsewhere, except (i) a facility or portion of a facility
 1445 licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services,
 1446 and (ii) the home or residence of an individual who cares for only persons related to him by blood or
 1447 marriage. Included in this definition are any two or more places, establishments or institutions owned,
 1448 operated or controlled by a single entity and providing such supplementary care and protection to a combined
 1449 total of four or more adults who are aged or infirm or who have disabilities.

1450 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in
 1451 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or
 1452 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his
 1453 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"
 1454 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure
 1455 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,
 1456 possession, or control of an adult's financial resources or property through the use of undue influence,
 1457 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services
 1458 against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or
 1459 defrauded into agreeing, to pay for such goods or services or to perform such services.

1460 "Adult foster care" means room and board, supervision, and special services to an adult who has a
 1461 physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

1462 "Adult foster care" does not include services or support provided to individuals through the Fostering Futures

1463 program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

1464 "Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is
 1465 not able to provide for himself or is not being provided services necessary to maintain his physical and
 1466 mental health and that the failure to receive such necessary services impairs or threatens to impair his well-
 1467 being. However, no adult shall be considered neglected solely on the basis that such adult is receiving
 1468 religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that
 1469 such treatment or care is performed in good faith and in accordance with the religious practices of the adult
 1470 and there is a written or oral expression of consent by that adult.

1471 "Adult protective services" means services provided by the local department that are necessary to protect
 1472 an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

1473 "Assisted living care" means a level of service provided by an assisted living facility for adults who may
 1474 have physical or mental impairments and require at least a moderate level of assistance with activities of daily
 1475 living.

1476 "Assisted living facility" means any congregate residential setting that provides or coordinates personal
 1477 and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the
 1478 maintenance or care of four or more adults who are aged or infirm or who have disabilities and who are cared
 1479 for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of
 1480 Health or the Department of Behavioral Health and Developmental Services, but including any portion of
 1481 such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only
 1482 persons related to him by blood or marriage; (iii) a facility or portion of a facility serving individuals who are
 1483 infirm or who have disabilities between the ages of 18 and 21, or 22 if enrolled in an educational program for
 1484 individuals with disabilities pursuant to § 22.1-214, when such facility is licensed by the Department as a
 1485 children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility
 1486 not so licensed; and (iv) any housing project for individuals who are 62 years of age or older or individuals
 1487 with disabilities that provides no more than basic coordination of care services and is funded by the U.S.
 1488 Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia
 1489 Housing Development Authority. Included in this definition are any two or more places, establishments or
 1490 institutions owned or operated by a single entity and providing maintenance or care to a combined total of
 1491 four or more adults who are aged or infirm or who have disabilities. Maintenance or care means the
 1492 protection, general supervision and oversight of the physical and mental well-being of an individual who is
 1493 aged or infirm or who has a disability.

1494 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive
 1495 benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these
 1496 benefits except for excess income.

1497 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

1498 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
 1499 parent(s) by previous adoption.

1500 "Board" means the State Board of Social Services.

1501 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering
 1502 Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the
 1503 eligibility criteria set forth in § 63.2-919.

1504 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
 1505 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
 1506 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
 1507 parents with the process of delegating parental and legal custodial powers of their children pursuant to
 1508 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such
 1509 parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.
 1510 Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
 1511 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

1512 "Child-protective services" means the identification, receipt and immediate response to complaints and
 1513 reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and
 1514 arranging for and providing necessary protective and rehabilitative services for a child and his family when
 1515 the child has been found to have been abused or neglected or is at risk of being abused or neglected.

1516 "Child support services" means any civil, criminal or administrative action taken by the Division of Child
 1517 Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child
 1518 support, or child and spousal support.

1519 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster
 1520 home.

1521 "Children's residential facility" means any facility, child-caring institution, or group home that is
 1522 maintained for the purpose of receiving children separated from their parents or guardians for full-time care,
 1523 maintenance, protection and guidance, or for the purpose of providing independent living services to persons

1524 between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's
1525 residential facility shall not include:

1526 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return
1527 annually to the homes of their parents or guardians for not less than two months of summer vacation;

1528 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

1529 3. A licensed or accredited hospital legally maintained as such.

1530 "Commissioner" means the Commissioner of the Department, his designee or authorized representative.

1531 "Department" means the State Department of Social Services.

1532 "Department of Health and Human Services" means the Department of Health and Human Services of the
1533 United States government or any department or agency thereof that may hereafter be designated as the agency
1534 to administer the Social Security Act, as amended.

1535 "Disposable income" means that part of the income due and payable of any individual remaining after the
1536 deduction of any amount required by law to be withheld.

1537 "Energy assistance" means benefits to assist low-income households with their home heating and cooling
1538 needs, including, but not limited to, purchase of materials or substances used for home heating, repair or
1539 replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling
1540 equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or
1541 provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home
1542 Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.

1543 "Family and permanency team" means the group of individuals assembled by the local department to
1544 assist with determining planning and placement options for a child, which shall include, as appropriate, all
1545 biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to
1546 the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case
1547 of a child who is 14 years of age or older, the family and permanency team shall also include any members of
1548 the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

1549 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
1550 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with §
1551 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the
1552 foster parents.

1553 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
1554 relationship with the child or his family.

1555 "Foster care placement" means placement of a child through (i) an agreement between the parents or
1556 guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment
1557 or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does
1558 not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et
1559 seq.) of Title 20.

1560 "Foster home" means a residence approved by a child-placing agency or local board in which any child,
1561 other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to
1562 delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has
1563 been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who
1564 exercises legal authority over the child on a continuous basis for at least 24 hours without compensation,
1565 resides as a member of the household.

1566 "General relief" means money payments and other forms of relief made to those persons mentioned in §
1567 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

1568 "Independent foster home" means a private family home in which any child, other than a child by birth or
1569 adoption of such person, resides as a member of the household and has been placed therein independently of
1570 a child-placing agency except (i) a home in which are received only children related by birth or adoption of
1571 the person who maintains such home and children of personal friends of such person; (ii) a home in which is
1572 received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6
1573 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children
1574 who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of
1575 Title 20.

1576 "Independent living" means a planned program of services designed to assist a child age 16 and over and
1577 persons who are former foster care children or were formerly committed to the Department of Juvenile
1578 Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

1579 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
1580 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
1581 or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the
1582 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
1583 living arrangement in which such child or person does not have daily substitute parental supervision.

1584 "Independent living services" means services and activities provided to a child in foster care 14 years of

1585 age or older who was committed or entrusted to a local board of social services, child welfare agency, or
 1586 private child-placing agency. "Independent living services" may also mean services and activities provided to
 1587 a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is
 1588 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
 1589 Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a
 1590 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
 1591 prior to placement in an independent living arrangement. Such services shall include counseling, education,
 1592 housing, employment, and money management skills development, access to essential documents, and other
 1593 appropriate services to help children or persons prepare for self-sufficiency.

1594 "Independent physician" means a physician who is chosen by the resident of the assisted living facility
 1595 and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or
 1596 employee or as an independent contractor with the residence.

1597 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care
 1598 placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity
 1599 authorized to make such placements in accordance with the laws of the foreign country under which it
 1600 operates.

1601 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care
 1602 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the
 1603 Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
 1604 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action
 1605 of any court.

1606 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

1607 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance
 1608 with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the
 1609 child's foster parent.

1610 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
 1611 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is
 1612 intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of
 1613 the child of the authority necessary to ensure the protection, education, care and control, and custody of the
 1614 child and the authority for decision making for the child.

1615 "Local board" means the local board of social services representing one or more counties or cities.

1616 "Local department" means the local department of social services of any county or city in the
 1617 Commonwealth.

1618 "Local director" means the director or his designated representative of the local department of the city or
 1619 county.

1620 "Merit system plan" means those regulations adopted by the Board in the development and operation of a
 1621 system of personnel administration meeting requirements of the federal Office of Personnel Management.

1622 "Parental placement" means locating or effecting the placement of a child or the placing of a child in a
 1623 family home by the child's parent or legal guardian for the purpose of foster care or adoption.

1624 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the
 1625 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child
 1626 care; and general relief.

1627 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to
 1628 perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a
 1629 home and community-based waiver program, including an independent physician contracting with the
 1630 Department of Medical Assistance Services to complete the uniform assessment instrument for residents of
 1631 assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance
 1632 Services to perform nursing facility pre-admission screenings.

1633 "Qualified individual" means a trained professional or licensed clinician who is not an employee of the
 1634 local board of social services or licensed child-placing agency that placed the child in a qualified residential
 1635 treatment program and is not affiliated with any placement setting in which children are placed by such local
 1636 board of social services or licensed child-placing agency.

1637 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
 1638 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
 1639 and other needs of children with serious emotional or behavioral disorders, including any clinical or other
 1640 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs
 1641 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their
 1642 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family
 1643 members, including efforts to maintain connections between the child and his siblings and other family;
 1644 documents and maintains records of such outreach efforts; and maintains contact information for any known
 1645 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,

1646 facilitates participation by family members in the child's treatment program before and after discharge and
 1647 documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-
 1648 based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. §
 1649 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human
 1650 Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of
 1651 such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-
 1652 appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of
 1653 Social Services; (b) identifies whether the needs of the child can be met through placement with a family
 1654 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a
 1655 qualified residential treatment program, that would provide the most effective and appropriate level of care
 1656 for the child in the least restrictive environment and be consistent with the short-term and long-term goals
 1657 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-
 1658 term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed
 1659 with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or
 1660 16.1-282.2.

1661 "Residential living care" means a level of service provided by an assisted living facility for adults who
 1662 may have physical or mental impairments and require only minimal assistance with the activities of daily
 1663 living. The definition of "residential living care" includes the services provided by independent living
 1664 facilities that voluntarily become licensed.

1665 "Sibling" means each of two or more children having one or more parents in common.

1666 "Social services" means foster care, adoption, adoption assistance, child-protective services, domestic
 1667 violence services, or any other services program implemented in accordance with regulations adopted by the
 1668 Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of
 1669 Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5
 1670 provided by local departments of social services in accordance with regulations and under the supervision of
 1671 the Commissioner for Aging and Rehabilitative Services.

1672 "Special order" means an order imposing an administrative sanction issued to any party licensed pursuant
 1673 to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall
 1674 be considered a case decision as defined in § 2.2-4001.

1675 "State-Funded Kinship Guardianship Assistance program" means a program that provides payments to
 1676 eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance
 1677 agreement developed in accordance with § 63.2-1306.

1678 "Supervised independent living setting" means the residence of a person 18 years of age or older who is
 1679 participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where
 1680 supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision.

1681 "Supervised independent living setting" does not include residential facilities or group homes.

1682 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
 1683 Department through which a relative can receive monthly cash assistance for the support of his eligible
 1684 children.

1685 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary
 1686 Assistance for Needy Families program for families in which both natural or adoptive parents of a child
 1687 reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW)
 1688 participation under § 63.2-609.

1689 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security
 1690 Act, as amended, and administered by the Department through which foster care is provided on behalf of
 1691 qualifying children.

1692 **§ 63.2-1700. Application fees; regulations and schedules; use of fees; certain facilities, centers, and**
 1693 **agencies exempt.**

1694 The Board is authorized to adopt regulations and schedules for fees to be charged for processing
 1695 applications for licenses to operate assisted living facilities, adult day care centers, and child welfare
 1696 agencies. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based
 1697 on the capacity of such facilities, centers, and agencies. Fees shall be used for the development and delivery
 1698 of training for operators and staff of facilities, centers, and agencies. Fees shall be expended for this purpose
 1699 within two fiscal years following the fiscal year in which they are collected. These fees shall not be
 1700 applicable to facilities, centers, or agencies operated by federal entities.

1701 **§ 63.2-1701. Licenses required; issuance, expiration, and renewal; maximum number of residents,**
 1702 **participants or children; posting of licenses.**

1703 A. As used in this section, "person" means any individual; corporation; partnership; association; limited
 1704 liability company; local government; state agency, including any department, institution, authority,
 1705 instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial
 1706 entity that operates or maintains a child welfare agency, adult day care center, or assisted living facility.

1707 B. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day care

1708 center, or child welfare agency shall obtain the appropriate license from the Commissioner, which may be
 1709 renewed. However, no license shall be required for an adult day care center that provides services only to
 1710 individuals enrolled in a Programs of All-Inclusive Care for the Elderly program operated in accordance with
 1711 an agreement between the provider, the Department of Medical Assistance Services and the Centers for
 1712 Medicare and Medicaid Services. The Commissioner, upon request, shall consult with, advise, and assist any
 1713 person interested in securing and maintaining any such license. Each application for a license shall be made
 1714 to the Commissioner, in such form as he may prescribe. It shall contain the name and address of the applicant
 1715 and, if the applicant is an association, partnership, limited liability company, or corporation, the names and
 1716 addresses of its officers and agents. The application shall also contain a description of the activities proposed
 1717 to be engaged in and the facilities and services to be employed, together with other pertinent information as
 1718 the Commissioner may require. In the case of an application for licensure as a children's residential facility,
 1719 the application shall also contain information regarding any complaints, enforcement actions, or sanctions
 1720 against a license to operate a children's residential facility held by the applicant in another state.

1721 C. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses may
 1722 be issued for concurrent operation of more than one assisted living facility, adult day care center, or child
 1723 welfare agency, but each license shall be issued upon a separate form. Each license and renewals thereof for
 1724 an assisted living facility, adult day care center, or child welfare agency may be issued for periods of up to
 1725 three successive years, unless sooner revoked or surrendered.

1726 D. The length of each license or renewal thereof for an assisted living facility shall be based on the
 1727 judgment of the Commissioner regarding the compliance history of the facility and the extent to which it
 1728 meets or exceeds state licensing standards. On the basis of this judgment, the Commissioner may issue
 1729 licenses or renewals thereof for periods of six months, one year, two years, or three years.

1730 E. The Commissioner may extend or shorten the duration of licensure periods for a child welfare agency
 1731 whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater
 1732 efficiency in staff utilization.

1733 F. Each license shall indicate the maximum number of persons who may be cared for in the assisted living
 1734 facility, adult day care center, or child welfare agency for which it is issued.

1735 G. The license and any other documents required by the Commissioner shall be posted in a conspicuous
 1736 place on the licensed premises.

1737 H. Every person issued a license that has not been suspended or revoked shall renew such license prior to
 1738 its expiration.

1739 I. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the
 1740 scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be
 1741 licensed.

1742 **§ 63.2-1705. Compliance with Uniform Statewide Building Code.**

1743 A. Buildings licensed as assisted living facilities, adult day care centers and child welfare agencies shall
 1744 be classified by and meet the specifications for the proper Use Group as required by the Virginia Uniform
 1745 Statewide Building Code.

1746 B. Buildings used for assisted living facilities or adult day care centers shall be licensed for ambulatory or
 1747 nonambulatory residents or participants. Ambulatory means the condition of a resident or participant who is
 1748 physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge
 1749 area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the
 1750 structure itself without the assistance of another person if there is no such refuge area within the structure,
 1751 even if such resident or participant may require the assistance of a wheelchair, walker, cane, prosthetic
 1752 device, or a single verbal command to evacuate. Nonambulatory means the condition of a resident or
 1753 participant who by reason of physical or mental impairment is not capable of self-preservation without the
 1754 assistance of another person.

1755 **§ 63.2-1706. Inspections and interviews.**

1756 A. Applicants for licensure and licensees shall at all times afford the Commissioner reasonable
 1757 opportunity to inspect all of their facilities, books and records, and to interview their agents and employees
 1758 and any person living or participating in such facilities, or under their custody, control, direction or
 1759 supervision. Interviews conducted pursuant to this section with persons living or participating in a facility
 1760 operated by or under the custody, control, direction, or supervision of an applicant for licensure or a licensee
 1761 shall be (i) authorized by the person to be interviewed or his legally authorized representative and (ii) limited
 1762 to discussion of issues related to the applicant's or licensee's compliance with applicable laws and regulations,
 1763 including ascertaining if assessments and reassessments of residents' cognitive and physical needs are
 1764 performed as required under regulations of the Board.

1765 B. For any adult day care center issued a license or renewal thereof for a period of six months, the
 1766 Commissioner shall make at least two inspections during the six-month period, one of which shall be
 1767 unannounced. For any adult day care center issued a license or renewal thereof for a period of one year, the
 1768 Commissioner shall make at least three inspections each year, at least two of which shall be unannounced.

1769 For any adult day care center issued a license or a renewal thereof for a period of two years, the
 1770 Commissioner shall make at least two inspections each year, at least one of which shall be unannounced. For
 1771 any adult day care center issued a three-year license, the Commissioner shall make at least one inspection
 1772 each year, which shall be unannounced.

1773 For any assisted living facility issued a license or renewal thereof for a period of six months, the
 1774 Commissioner shall make at least two inspections during the six-month period, one of which shall be
 1775 unannounced. For any assisted living facility issued a license or renewal thereof for a period of one, two, or
 1776 three years, the Commissioner shall make at least one inspection each year, which shall be unannounced, and
 1777 as needed based on compliance with applicable laws and regulations.

1778 C. All licensed child welfare agencies shall be inspected not less than twice annually, and one of those
 1779 inspections shall be unannounced.

1780 D. The activities, services and facilities of each applicant for renewal of his license as an assisted living
 1781 facility, adult day care center or child welfare agency shall be subject to an inspection or examination by the
 1782 Commissioner to determine if he is in compliance with current regulations of the Board.

1783 E. For any licensed assisted living facility, adult day care center or child welfare agency, the
 1784 Commissioner may authorize such other announced or unannounced inspections as the Commissioner
 1785 considers appropriate.

1786 **§ 63.2-1708. Records and reports.**

1787 Every licensed assisted living facility, licensed adult day care center, or licensed child welfare agency
 1788 shall keep such records and make such reports to the Commissioner as he may require. The forms to be used
 1789 in the making of such reports shall be prescribed and furnished by the Commissioner.

1790 **§ 63.2-1709. Enforcement and sanctions; assisted living facilities and adult day centers; interim
 1791 administration; receivership, revocation, denial, summary suspension.**

1792 A. Upon receipt and verification by the Commissioner of information from any source indicating an
 1793 imminent and substantial risk of harm to residents, the Commissioner may require an assisted living facility
 1794 to contract with an individual licensed by the Board of Long-Term Care Administrators, to be either selected
 1795 from a list created and maintained by the Department of Medical Assistance Services or selected from a pool
 1796 of appropriately licensed administrators recommended by the owner of the assisted living facility, to
 1797 administer, manage, or operate the assisted living facility on an interim basis, and to attempt to bring the
 1798 facility into compliance with all relevant requirements of law, regulation, or any plan of correction approved
 1799 by the Commissioner. Such contract shall require the interim administrator to comply with any and all
 1800 requirements established by the Department to ensure the health, safety, and welfare of the residents. Prior to
 1801 or upon conclusion of the period of interim administration, management, or operation, an inspection shall be
 1802 conducted to determine whether operation of the assisted living facility shall be permitted to continue or
 1803 should cease. Such interim administration, management, or operation shall not be permitted when defects in
 1804 the conditions of the premises of the assisted living facility (i) present immediate and substantial risks to the
 1805 health, safety, and welfare of residents, and (ii) may not be corrected within a reasonable period of time. Any
 1806 decision by the Commissioner to require the employment of a person to administer, manage, or operate an
 1807 assisted living facility shall be subject to the rights of judicial review and appeal as provided in the
 1808 Administrative Process Act (§ 2.2-4000 et seq.). Actual and reasonable costs of such interim administration
 1809 shall be the responsibility of and shall be borne by the owner of the assisted living facility.

1810 B. The Board shall adopt regulations for the Commissioner to use in determining when the imposition of
 1811 administrative sanctions or initiation of court proceedings, severally or jointly, is appropriate in order to
 1812 ensure prompt correction of violations in assisted living facilities and adult day care centers involving
 1813 noncompliance with state law or regulation as discovered through any inspection or investigation conducted
 1814 by the Departments of Social Services, Health, or Behavioral Health and Developmental Services. The
 1815 Commissioner may impose such sanctions or take such actions as are appropriate for violation of any of the
 1816 provisions of this subtitle or any regulation adopted under any provision of this subtitle that adversely affects
 1817 the health, safety or welfare of an assisted living facility resident or an adult day care center participant. Such
 1818 sanctions or actions may include (i) petitioning the court to appoint a receiver for any assisted living facility
 1819 or adult day care center and (ii) revoking or denying renewal of the license for the assisted living facility or
 1820 adult day care center for violation of any of the provisions of this subtitle, § 54.1-3408 or any regulation
 1821 adopted under this subtitle that violation adversely affects, or is an immediate and substantial threat to, the
 1822 health, safety or welfare of the person cared for therein, or for permitting, aiding or abetting the commission
 1823 of any illegal act in an assisted living facility or adult day care center.

1824 C. The Commissioner may issue a notice of summary suspension of the license to operate the assisted
 1825 living facility pursuant to (i) for assisted living facilities operated by agencies of the Commonwealth, the
 1826 procedures set forth in § 63.2-1710.1 or (ii) for all other assisted living facilities, the procedures hereinafter
 1827 set forth in conjunction with any proceeding for revocation, denial, or other action when conditions or
 1828 practices exist that pose an immediate and substantial threat to the health, safety, and welfare of the residents.
 1829 The notice of summary suspension shall set forth (a) the summary suspension procedures, (b) hearing and

1830 appeal rights as provided under this subsection, (c) facts and evidence that formed the basis for which the
 1831 summary suspension is sought, and (d) the time, date, and location of the hearing to determine whether the
 1832 suspension is appropriate. Such notice shall be served on the assisted living facility or its designee as soon as
 1833 practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of
 1834 the assisted living facility.

1835 The summary suspension hearing shall be presided over by a hearing officer selected by the
 1836 Commissioner from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be
 1837 held as soon as practicable, but in no event later than 15 business days following service of the notice of
 1838 hearing; however, the hearing officer may grant a written request for a continuance, not to exceed an
 1839 additional 10 business days, for good cause shown. Within 10 business days after such hearing, the hearing
 1840 officer shall provide to the Commissioner written findings and conclusions, together with a recommendation
 1841 as to whether the license should be summarily suspended.

1842 Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation,
 1843 the Commissioner may issue a final order of summary suspension or an order that such summary suspension
 1844 is not warranted by the facts and circumstances presented. The Commissioner shall adopt the hearing officer's
 1845 recommended decision unless to do so would be an error of law or Department policy. In the event that the
 1846 Commissioner rejects a hearing officer's findings, conclusions, or recommended decision, the Commissioner
 1847 shall state with particularity the basis for rejection. In issuing a final order of summary suspension, the
 1848 Commissioner may suspend the license of the assisted living facility or suspend only certain authority of the
 1849 assisted living facility to provide certain services or perform certain functions that the Commissioner
 1850 determines should be restricted or modified in order to protect the health, safety, and welfare of the residents
 1851 receiving care. A final order of summary suspension shall include notice that the assisted living facility may
 1852 appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following service of
 1853 the order. A copy of any final order of summary suspension shall be prominently displayed by the provider at
 1854 each public entrance of the facility, or in lieu thereof, the provider may display a written statement
 1855 summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface,
 1856 and identifying the location within the facility where the final order of summary suspension may be reviewed.

1857 Upon appeal, the sole issue before the court shall be whether the Department had reasonable grounds to
 1858 require the assisted living facility to cease operations during the pendency of the concurrent revocation,
 1859 denial, or other proceeding. Any concurrent revocation, denial, or other proceeding shall not be affected by
 1860 the outcome of any hearing on the appropriateness of the summary suspension. The willful and material
 1861 failure to comply with the final order of summary suspension shall constitute an offense under subdivision 3
 1862 of § 63.2-1712. At the request of the Commissioner, all agencies and subdivisions of the Commonwealth
 1863 shall cooperate with the Commissioner in the relocation of residents of an assisted living facility whose
 1864 license has been summarily suspended pursuant to this section and in any other actions necessary to reduce
 1865 the risk of further harm to residents.

1866 D. Notice of the Commissioner's intent to revoke or deny renewal of the license for an assisted living
 1867 facility or to summarily suspend the license of an assisted living facility shall be provided by the Department
 1868 and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed
 1869 premises to advise consumers of serious or persistent violations. In determining whether to deny, revoke, or
 1870 summarily suspend a license, the Commissioner may choose to deny, revoke, or summarily suspend only
 1871 certain authority of the assisted living facility to operate and may restrict or modify the assisted living
 1872 facility's authority to provide certain services or perform certain functions that the Commissioner determines
 1873 should be restricted or modified in order to protect the health, safety, or welfare of the residents. Such
 1874 proposed denial, revocation, or summary suspension of certain services or functions may be appealed (i) if
 1875 the assisted living facility is operated by an agency of the Commonwealth in accordance with the provisions
 1876 of § 63.2-1710.2 and (ii) for all other assisted living facilities as otherwise provided in this subtitle for any
 1877 denial, revocation, or summary suspension.

1878 **§ 63.2-1709.2. Enforcement and sanctions; special orders; civil penalties.**

1879 A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the
 1880 Commissioner may issue a special order (i) for violation of any of the provisions of this subtitle, § 54.1-3408,
 1881 or any regulation adopted under any provision of this subtitle which violation adversely affects, or is an
 1882 imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii) for
 1883 permitting, aiding, or abetting the commission of any illegal act in an assisted living facility, adult day care
 1884 center, or child welfare agency. Notice of the Commissioner's intent to take any of the actions enumerated in
 1885 subdivisions B 1 through B 7 shall be provided by the Department and a copy of such notice shall be posted
 1886 in a prominent place at each public entrance of the licensed premises to advise consumers of serious or
 1887 persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-
 1888 4001. Actions set forth in subsection B may be appealed by (a) an assisted living facility, adult day care
 1889 center, or child welfare agency operated by an agency of the Commonwealth in accordance with § 63.2-
 1890 1710.2 or (b) any other assisted living facility, adult day care center, or child welfare agency in accordance

1891 with the Administrative Process Act (§ 2.2-4000 et seq.). The Commissioner shall not delegate his authority
 1892 to impose civil penalties in conjunction with the issuance of special orders.

1893 B. The Commissioner may take the following actions regarding assisted living facilities, adult day care
 1894 centers, and child welfare agencies through the issuance of a special order and may require a copy of the
 1895 special order provided by the Department to be posted in a prominent place at each public entrance of the
 1896 licensed premises to advise consumers of serious or persistent violations:

1897 1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the
 1898 terms of its license and that the health and safety of residents, participants, or children are at risk;

1899 2. Reduce licensed capacity or prohibit new admissions when the Commissioner concludes that the
 1900 licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary
 1901 restriction of its scope of service;

1902 3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee,
 1903 when the Commissioner concludes that the lack of such training has led directly to violations of regulations;

1904 4. Assess civil penalties for each day the assisted living facility is or was out of compliance with the terms
 1905 of its license and the health, safety, and welfare of residents are at risk, which shall be paid into the state
 1906 treasury and credited to the Assisted Living Facility Education, Training, and Technical Assistance Fund
 1907 created pursuant to § 63.2-1803.1; however, no civil penalty shall be imposed pursuant to this subdivision on
 1908 any assisted living facility operated by an agency of the Commonwealth. The aggregate amount of such civil
 1909 penalties shall not exceed \$10,000 for assisted living facilities in any 12-month period. Criteria for imposition
 1910 of civil penalties and amounts, expressed in ranges, shall be developed by the Board, and shall be based upon
 1911 the severity, pervasiveness, duration, and degree of risk to the health, safety, or welfare of residents. Such
 1912 civil penalties shall be applied by the Commissioner in a consistent manner. Such criteria shall also provide
 1913 that (i) the Commissioner may accept a plan of correction, including a schedule of compliance, from an
 1914 assisted living facility prior to setting a civil penalty, and (ii) the Commissioner may reduce or abate the
 1915 penalty amount if the facility complies with the plan of correction within its terms.

1916 A single act, omission, or incident shall not give rise to imposition of multiple civil penalties even though
 1917 such act, omission, or incident may violate more than one statute or regulation. A civil penalty that is not
 1918 appealed becomes due on the first day after the appeal period expires. The license of an assisted living facility
 1919 that has failed to pay a civil penalty due under this section shall not be renewed until the civil penalty has
 1920 been paid in full, with interest, provided that the Commissioner may renew a license when an unpaid civil
 1921 penalty is the subject of a pending appeal;

1922 5. Assess civil penalties of not more than \$500 per inspection upon finding that the adult day care center
 1923 or child welfare agency is substantially out of compliance with the terms of its license and the health and
 1924 safety of residents, participants, or children are at risk; however, no civil penalty shall be imposed pursuant to
 1925 this subdivision on any adult day care center or child welfare agency operated by an agency of the
 1926 Commonwealth;

1927 6. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health
 1928 and safety violations; and

1929 7. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the
 1930 regulations from receiving public funds.

1931 C. The Board shall adopt regulations to implement the provisions of this section.

1932 **§ 63.2-1710. Appeal from refusal, denial of renewal, or revocation of license.**

1933 A. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an
 1934 assisted living facility, adult day care center, or child welfare agency operated by an agency of the
 1935 Commonwealth, the provisions of § 63.2-1710.2 shall apply. Whenever the Commissioner refuses to issue a
 1936 license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child
 1937 welfare agency other than an assisted living facility, adult day care center, or child welfare agency operated
 1938 by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.)
 1939 shall apply, except that all appeals from notice of the Commissioner's intent to refuse to issue or renew, or
 1940 revoke a license shall be received in writing from the assisted living facility, adult day care center or child
 1941 welfare agency operator within 15 days of the date of receipt of the notice. Judicial review of a final review
 1942 agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be
 1943 granted upon appeal to the Court of Appeals.

1944 B. In every appeal to a court of record, the Commissioner shall be named defendant.

1945 C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for
 1946 operation without a license.

1947 D. When issuance or renewal of a license as an assisted living facility or adult day care center has been
 1948 refused by the Commissioner, the applicant shall not thereafter for a period of one year apply again for such
 1949 license unless the Commissioner in his sole discretion believes that there has been such a change in the
 1950 conditions on account of which he refused the prior application as to justify considering the new application.
 1951 When an appeal is taken by the applicant pursuant to subsection A, the one-year period shall be extended

1952 until a final decision has been rendered on appeal.

1953 E. When issuance or renewal of a license for a child welfare agency has been refused by the
1954 Commissioner, the applicant shall not thereafter for a period of six months apply again for such license unless
1955 the Commissioner in his sole discretion believes that there has been such a change in the conditions on
1956 account of which he refused the prior application as to justify considering the new application. When an
1957 appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final
1958 decision has been rendered on appeal.

1959 **§ 63.2-1710.2. Right to appeal notice of intent; assisted living facilities, adult day centers, and child**
1960 **welfare agencies operated by agencies of the Commonwealth.**

1961 An assisted living facility, adult day ~~care~~ center, or child welfare agency operated by an agency of the
1962 Commonwealth shall have the right to appeal any notice of intent as follows:

1963 1. Within 30 days after receiving a notice of intent to impose a sanction, the licensee shall request in
1964 writing that the Commissioner review the intended agency action and may submit, together with such request,
1965 relevant information, documentation, or other pertinent data supporting its appeal. The Commissioner shall
1966 issue a decision within 60 days after receiving the request and shall have the authority to uphold the sanction
1967 or take whatever action he deems appropriate to resolve the controversy.

1968 2. If the assisted living facility, adult day ~~care~~ center, or child welfare agency disputes the Commissioner's
1969 decision, the licensee shall request, within 30 days of receiving the Commissioner's decision, that the
1970 Commissioner refer the matter to the Secretary of Health and Human Resources. The Secretary shall issue a
1971 decision within 60 days of receiving the request for review. The Secretary's decision shall be final and shall
1972 not be subject to review.

1973 **§ 63.2-1711. Injunction against operation without license.**

1974 Any circuit court having jurisdiction in the county or city where the principal office of any assisted living
1975 facility, adult day ~~care~~ center or child welfare agency is located shall, at the suit of the Commissioner, have
1976 jurisdiction to enjoin its operation without a license required by this subtitle.

1977 **§ 63.2-1712. Offenses; penalty.**

1978 Any person, and each officer and each member of the governing board of any association or corporation
1979 that operates an assisted living facility, adult day ~~care~~ center or child welfare agency, is guilty of a Class 1
1980 misdemeanor if he:

1981 1. Interferes with any representative of the Commissioner in the discharge of his duties under this subtitle;

1982 2. Makes to the Commissioner or any representative of the Commissioner any report or statement, with
1983 respect to the operation of any assisted living facility, adult day ~~care~~ center, or child welfare agency, that is
1984 known by such person to be false or untrue;

1985 3. Operates or engages in the conduct of an assisted living facility, adult day ~~care~~ center, or child welfare
1986 agency without first obtaining a license as required by this subtitle or after such license has been revoked or
1987 suspended or has expired and not been renewed. No violation shall occur if the facility, center, or agency has
1988 applied to the Department for renewal prior to the expiration date of the license. Every day's violation of this
1989 subdivision shall constitute a separate offense; or

1990 4. Operates or engages in the conduct of an assisted living facility, adult day ~~care~~ center, or child welfare
1991 agency serving more persons than the maximum stipulated in the license.

1992 **§ 63.2-1713. Misleading advertising prohibited.**

1993 No assisted living facility, adult day ~~care~~ center, or child welfare agency shall make, publish, disseminate,
1994 circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated,
1995 circulated, or placed before the public in ~~this~~ the Commonwealth, in a newspaper or other publication; in the
1996 form of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet, or letter; or via
1997 electronic mail, website, automatic mailing list services (listservs), newsgroups, facsimile, chat rooms; or in
1998 any other way an advertisement of any sort regarding services or anything so offered to the public, which
1999 advertisement contains any promise, assertion, representation, or statement of fact that is untrue, deceptive, or
2000 misleading.

2001 **§ 63.2-1720. Assisted living facilities and adult day centers; employment for compensation of**
2002 **persons or use of volunteers convicted of certain offenses prohibited; background check required;**
2003 **penalty.**

2004 A. No assisted living facility or adult day ~~care~~ center shall hire for compensated employment or continue
2005 to employ persons who have been convicted of any offense set forth in clause (i) of the definition of barrier
2006 crime in § 19.2-392.02. A child-placing agency or independent foster home licensed in accordance with the
2007 provisions of this chapter shall not hire for compensated employment or continue to employ persons who (i)
2008 have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded
2009 complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment
2010 shall undergo background checks pursuant to subsection C.

2011 B. A licensed assisted living facility or adult day ~~care~~ center may hire an applicant or continue to employ
2012 a person convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially

2013 similar offense under the laws of another jurisdiction, if five years have elapsed following the conviction.

2014 C. Background checks pursuant to subsection A require:

2015 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the
2016 subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed
2017 child-placing agencies or independent foster homes, whether or not the person has been the subject of a
2018 founded complaint of child abuse or neglect within or outside the Commonwealth;

2019 2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-
2020 389; and

2021 3. In the case of licensed child-placing agencies or independent foster homes, a search of the central
2022 registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

2023 D. Any person making a materially false statement regarding the sworn statement or affirmation provided
2024 pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

2025 E. A licensed assisted living facility, licensed adult day ~~care~~ center, licensed child-placing agency, or
2026 licensed independent foster home shall obtain for any compensated employees within 30 days of employment
2027 (i) an original criminal record clearance with respect to convictions for any offense set forth in clause (i) of
2028 the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central
2029 Criminal Records Exchange and (ii) in the case of licensed child-placing agencies or independent foster
2030 homes, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02
2031 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the
2032 information from the central registry for any compensated employee within 30 days of employment.
2033 However, no employee shall be permitted to work in a position that involves direct contact with a person or
2034 child receiving services until an original criminal record clearance or original criminal history record has
2035 been received, unless such person works under the direct supervision of another employee for whom a
2036 background check has been completed in accordance with the requirements of this section. If an applicant is
2037 denied employment because of information from the central registry or convictions appearing on his criminal
2038 history record, the licensed assisted living facility, adult day ~~care~~ center, child-placing agency, or independent
2039 foster home shall provide a copy of the information obtained from the central registry or the Central Criminal
2040 Records Exchange or both to the applicant.

2041 F. No volunteer who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the
2042 subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be
2043 permitted to serve in a licensed child-placing agency or independent foster home. Any person desiring to
2044 volunteer at a licensed child-placing agency or independent foster home shall provide the agency, system, or
2045 home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency
2046 or independent foster home shall obtain for any volunteers, within 30 days of commencement of volunteer
2047 service, a copy of (a) the information from the central registry and (b) an original criminal record clearance
2048 with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the
2049 Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn
2050 statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a
2051 volunteer is denied service because of information from the central registry or convictions appearing on his
2052 criminal history record, such licensed child-placing agency or independent foster home shall provide a copy
2053 of the information obtained from the central registry or the Central Criminal Records Exchange or both to the
2054 volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in
2055 the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-
2056 placing agency or independent foster home, whether or not such parent-volunteer will be alone with any child
2057 in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children
2058 that includes the parent-volunteer's own child in a program that operates no more than four hours per day,
2059 provided that the parent-volunteer works under the direct supervision of a person who has received a
2060 clearance pursuant to this section.

2061 G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day ~~care~~
2062 center without the permission or under the supervision of a person who has received a clearance pursuant to
2063 this section.

2064 H. Further dissemination of the background check information is prohibited other than to the
2065 Commissioner's representative or a federal or state authority or court as may be required to comply with an
2066 express requirement of law for such further dissemination.

2067 I. Notwithstanding any other provision of law, a licensed adult day ~~care~~ center that provides services to
2068 individuals receiving services under the state plan for medical assistance services or any waiver thereto may
2069 disclose to the Department of Medical Assistance Services (i) whether a criminal history background check
2070 has been completed for an employee in accordance with this section and (ii) whether such employee is
2071 eligible for employment.

2072 J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this
2073 article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

2074 K. A person who complies in good faith with the provisions of this section shall not be liable for any civil

2075 damages for any act or omission in the performance of duties under this section unless the act or omission
2076 was the result of gross negligence or willful misconduct.

2077 **§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain**
2078 **background check.**

2079 A. The Commissioner may revoke or deny renewal of a license of a child welfare agency, assisted living
2080 facility, or adult day ~~care~~ center and a child-placing agency may revoke the approval of a foster home if the
2081 assisted living facility, adult day ~~care~~ center, child welfare agency, or foster home has knowledge that a
2082 person specified in § 63.2-1720 or 63.2-1721 required to have a background check (i) has been convicted of
2083 any barrier crime as defined in § 19.2-392.02 or (ii) in the case of a child welfare agency or foster home, is
2084 the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such
2085 person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the
2086 exceptions in subsection B of § 63.2-1720 or subsection E, F, G, or H of § 63.2-1721, and the facility, center,
2087 or agency refuses to separate such person from employment or service or allows the household member to
2088 continue to reside in the home.

2089 B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1721 shall be grounds for
2090 denial, revocation, or termination of a license, registration, or approval or any contract with the Department
2091 or a local department to provide child care services to clients of the Department or local department. No
2092 violation shall occur if the assisted living facility, adult day ~~care~~ center, child-placing agency, or independent
2093 foster home has applied for the background check timely and it has not been obtained due to administrative
2094 delay. The provisions of this section shall be enforced by the Department.

2095 **§ 63.2-1728. Establishment of toll-free telephone line for complaints; investigation on receipt of**
2096 **complaints.**

2097 With such funds as are appropriated for this purpose, the Commissioner shall establish a toll-free
2098 telephone line to respond to complaints regarding operations of assisted living facilities, adult day ~~care~~
2099 centers and child welfare agencies. Upon receipt of a complaint concerning the operation of an assisted living
2100 facility, adult day ~~care~~ center or child welfare agency, regardless of whether the program is subject to
2101 licensure, the Commissioner shall, for good cause shown, cause an investigation to be made, including on-site
2102 visits as he deems necessary, of the activities, services, records and facilities. The assisted living facility,
2103 adult day ~~care~~ center or child welfare agency shall afford the Commissioner reasonable opportunity to inspect
2104 all of the operator's activities, services, records and facilities and to interview its agents and employees and
2105 any child or other person within its custody or control. Whenever an assisted living facility, adult day ~~care~~
2106 center or child welfare agency subject to inspection under this section is determined by the Commissioner to
2107 be in noncompliance with the provisions of this subtitle or with regulations adopted pursuant to this subtitle,
2108 the Commissioner shall give reasonable notice to the assisted living facility, adult day ~~care~~ center or child
2109 welfare agency of the nature of its noncompliance and may thereafter take appropriate action as provided by
2110 law, including a suit to enjoin the operation of the assisted living facility, adult day ~~care~~ center or child
2111 welfare agency.

2112 An incident report filed by an assisted living facility, pursuant to regulations adopted by the Board, for
2113 any major incident that negatively affects or threatens the life, health, safety, or welfare of any resident of the
2114 facility shall not be considered a complaint for purposes of this section and shall not be posted by the
2115 Department on a website maintained by the Department. However, upon receipt of an incident report for any
2116 major incident that negatively affects or threatens the life, health, safety, or welfare of any resident of an
2117 assisted living facility, the Commissioner may initiate an investigation including an on-site visit to the facility
2118 if the Commissioner finds, for good cause shown based upon the seriousness of the incident and the nature of
2119 any response to the incident, including any implementation of a plan of correction to address the situation
2120 giving rise to the incident, that an investigation is required to protect the life, health, safety, or welfare of a
2121 resident of the assisted living facility.

2122 **§ 63.2-1729. Confidentiality of complainant's identity.**

2123 Whenever the Department conducts inspections and investigations in response to complaints received
2124 from the public, the identity of the complainant and the identity of any resident, participant or child who is
2125 the subject of the complaint, or identified therein, shall be confidential and shall not be open to inspection by
2126 members of the public. Identities of the complainant and resident, participant or child who is the subject of
2127 the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the
2128 Department, in its discretion, from disclosing to the assisted living facility, adult day ~~care~~ center or child
2129 welfare agency the nature of the complaint or the identity of the resident, participant or child who is the
2130 subject of the complaint. Nothing contained herein shall prevent the Department or its employees from
2131 making reports under Chapter 15 (§ 63.2-1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of
2132 Chapter 16 of this title. If the Department intends to rely, in whole or in part, on any statements made by the
2133 complainant, at any administrative hearing brought against the assisted living facility, adult day ~~care~~ center or
2134 child welfare agency, the Department shall disclose the identity of the complainant to the assisted living
2135 facility, adult day ~~care~~ center or child welfare agency a reasonable time in advance of such hearing.

2136 **§ 63.2-1730. Retaliation or discrimination against complainants.**

2137 No assisted living facility, adult day ~~care~~ center or child welfare agency may retaliate or discriminate in
2138 any manner against any person who (i) in good faith complains or provides information to, or otherwise
2139 cooperates with, the Department or any other agency of government or any person or entity operating under
2140 contract with an agency of government, having responsibility for protecting the rights of residents of assisted
2141 living facilities, participants in adult day ~~care~~ centers or children in child welfare agencies, (ii) attempts to
2142 assert any right protected by state or federal law, or (iii) assists any person in asserting such right.

2143 **§ 63.2-1731. Retaliation against reports of child or adult abuse or neglect.**

2144 No assisted living facility, adult day ~~care~~ center or child welfare agency may retaliate in any manner
2145 against any person who in good faith reports adult or child abuse or neglect pursuant to Chapter 15 (§ 63.2-
2146 1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of this title.

2147 **§ 63.2-1733. Regulations for adult day centers.**

2148 A. The Board shall have the authority to adopt and enforce regulations to carry out the provisions of this
2149 subtitle and to protect the health, safety, welfare, and individual rights of participants of adult day ~~care~~
2150 centers and to promote their highest level of functioning.

2151 B. Regulations shall include standards for care and services to be provided to participants; administration
2152 of medication; staffing; staff qualifications and training; and facility design, construction, and equipment.