

### Agenda

May 21, 2021 – 8:30 a.m.

VIA WEBEX

The public may sign up to virtually attend through

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=effb720bc0a3f8fa5b35d9c166f07a3d5>

**NOTE:** Task Force Members should join the meeting using the WebEx link they received by email.

1. **Call to Order and Introductions** – *M. Norman Oliver, MD, MA, Task Force Chair, State Health Commissioner*
2. **Determination of Quorum** – *Rebekah E. Allen, Senior Policy Analyst, Office of Licensure and Certification, Virginia Department of Health*
3. **Review of Agenda** – *Ms. Allen*
4. **Public Comment**
5. **Presentations and Discussion**
  - 5.1. **Task Force Overview** – *Alexandra Jansson, Policy Analyst, Governmental and Regulatory Affairs, Virginia Department of Health*
  - 5.2. **Regulations and Action Items** – *Ms. Allen, Ms. Jansson and Task Force Members*
6. **Next Steps** – *Ms. Allen and Ms. Jansson*
7. **Other Business** – *Dr. Oliver*
8. **Meeting Adjournment**

# Sexual Assault Survivor Task Force

May 21, 2021 at 8:30 AM  
Virtual Meeting  
WebEx



# CALL TO ORDER AND INTRODUCTIONS



## Introductions

### Named Members in the Code of Virginia

Name	Constituency
M. Norman Oliver	Commissioner, Department of Health
Jennifer Boysko	Senate Rules Committee
Kelly Convirs-Fowler	House of Delegates
Karrie Delaney	House of Delegates
Mark Herring	Attorney General
Gary Settle	Director, Department of State Police
Gena Berger	Chief Deputy Commissioner, Department of Social Services (designee of Duke Storen, Commissioner)

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**VDH** VIRGINIA  
DEPARTMENT  
OF HEALTH  
*To protect the health and promote the  
well-being of all people in Virginia.*

## Introductions

### Appointed by Governor

Name	Constituency
Robin Foster	Representative of a licensed hospital
Lindsey Caley	Licensed pediatrician who is a practitioner of emergency medicine
Patricia Hall	Member of sexual assault survivor advocacy organization
Melissa Harper	Licensed nurse who is a sexual assault nurse examiner
Sara Jennings	Licensed nurse who is a sexual assault nurse examiner
Jeanne Parrish	Member of children's advocacy organization
Bonnie Price	Licensed nurse who is a sexual assault nurse examiner
Dawn Scaff	Representative of a licensed hospital
Scott Sparks	Licensed physician who is a practitioner of emergency medicine
Brooke Thomas	Licensed physician who is a practitioner of emergency medicine
Chatonia Zolicoffer	Member of sexual assault survivor advocacy organization

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## DETERMINATION OF QUORUM

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## Determination of Quorum

A quorum is the minimum number of members need to take action on behalf of the Task Force

Not set in statute, so unless Task Force chooses a different number, it defaults to a majority (i.e., 10)

Staff recommend voting to choose 8 as the Task Force's quorum

- The State Board of Health's quorum is 40%
- 40% of the Task Force is 7.2, so we rounded up

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## Agenda

Item	Speaker
Introductions and Roll Call	M. Norman Oliver, MD, MA, Chair State Health Commissioner
Determination of Quorum	Rebekah E. Allen, JD, Senior Policy Analyst Office of Licensure and Certification
Review of Agenda	Ms. Allen
Public Comment	
Task Force Overview	Alexandra Jansson, MPP, Policy Analyst Governmental and Regulatory Affairs
Regulations and Action Items	Ms. Allen, Ms. Jansson, and Task Force Members
Next Steps	Ms. Allen and Ms. Jansson
Other Business	Dr. Oliver
Meeting Adjournment	

## PUBLIC COMMENT

## Public Comment Period

There is a two minute time limit for each person to speak.

We will be calling from the list generated through attendee registration.

After the 2 minute public comment limit is reached, we will let you complete the sentence. We will then mute you and move on to the next attendee.

We will call the name of the person on list and also the name of the person is next on the list.

## TASK FORCE OVERVIEW

## Task Force Overview

Established by Chapter 725 of the 2020 Acts of Assembly, creating Title 32.1, Chapter 5, Article 8 (§ 32.1-162.15:2 *et seq.*)

Primary goal: To develop model documents, plans, and processes for these facilities to use; to educate these facilities on their obligations in treating or transferring survivors of sexual assault; and to increase the use of telemedicine in providing services to survivors of sexual assault

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## Task Force Overview

Develop model treatment and transfer plans, written transfer agreements, written agreements with rape crisis centers

Recommend processes and best practices

- Documentation and preservation of evidence
- Use of telemedicine

Create educational materials for providers and advocates

Annual Report - December 1 each year

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# REGULATIONS AND ACTION ITEMS

## Regulations

Regulations are developed concurrently but separately from Task Force

### Notice of Intended Regulatory Action

- Published March 1, 2021
- Public comment closed March 31, 2021; no comments

### Proposed Text under development

- Will need to be presented for Board of Health approval
- Subject to Executive Branch Review
- Subject to 60-day public comment period

Final Text to follow



## Action Items

Work plan development

Frequency of meetings

Bylaws

Electronic meeting policy

## NEXT STEPS

## OTHER BUSINESS

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## MEETING ADJOURNMENT

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Membership Roster

Title	First name	Last name	Constituency	Term
Senator	Jennifer B.	Boysko	Member of the Senate appointed by the Senate Committee on Rules	Coincident with term of office
Delegate	Kelly K.	Convirs-Fowler	Member of the House of Delegates appointed by the Speaker of the House of Delegates	Coincident with term of office
Delegate	Karrie K.	Delaney	Member of the House of Delegates appointed by the Speaker of the House of Delegates	Coincident with term of office
Mr.	Mark R.	Herring	Attorney General of the Commonwealth of Virginia	Coincident with term of office
Dr.	M. Norman	Oliver	State Health Commissioner of the Virginia Department of Health	Coincident with term of appointment
Colonel	Gary	Settle	Superintendent of the Virginia Department of State Police	Coincident with term of appointment
Dr.	S. Duke	Storen	Commissioner of the Virginia Department of Social Services	Coincident with term of appointment
Ms.	Dawn	Scaff	Representative of a licensed hospital	June 30, 2022
Dr.	Robin L.	Foster	Representative of a licensed hospital	June 30, 2024
Dr.	Scott E.	Sparks	Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine	June 30, 2022
Dr.	Lindsey N.	Caley	Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine and who is a pediatrician	June 30, 2021
Dr.	Brooke	Thomas	Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine	June 30, 2021
Dr.	Bonnie	Price	Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner	June 30, 2024
Ms.	Melissa	Ratcliff Harper	Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner	June 30, 2023
Dr.	Sara	Jennings	Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner	June 30, 2022
Ms.	Chatonia "Toni"	Zolicoffer	Representative of an organization providing advocacy on behalf of survivors of sexual assault	June 30, 2024
Ms.	Patricia	McComas Hall	Representative of an organization providing advocacy on behalf of survivors of sexual assault	June 30, 2023
Dr.	Jeanne	Parrish	Representative of an organization providing advocacy on behalf of children	June 30, 2023

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 725

*An Act to amend the Code of Virginia by adding in Chapter 5 of Title 32.1 an article numbered 8, consisting of sections numbered 32.1-162.15:2 through 32.1-162.15:11, by adding in Article 1 of Chapter 29 of Title 54.1 a section numbered 54.1-2910.5, and by adding in Article 2 of Chapter 30 of Title 54.1 a section numbered 54.1-3018.2, relating to treatment of sexual assault survivors; requirements.*

[H 808]

Approved April 6, 2020

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

**1. That the Code of Virginia is amended by adding in Chapter 5 of Title 32.1 an article numbered 8, consisting of sections numbered 32.1-162.15:2 through 32.1-162.15:11, by adding in Article 1 of Chapter 29 of Title 54.1 a section numbered 54.1-2910.5, and by adding in Article 2 of Chapter 30 of Title 54.1 a section numbered 54.1-3018.2 as follows:**

*Article 8.*

*Services for Survivors of Sexual Assault.*

**§ 32.1-162.15:2. Definitions.**

*"Anonymous physical evidence recovery kit" has the same meaning as in § 19.2-11.5.*

*"Approved pediatric health care facility" means a pediatric health care facility for which a plan for the delivery of services to pediatric survivors of sexual assault has been approved pursuant to § 32.1-162.15:6.*

*"Board" means the Board of Health.*

*"Department" means the Department of Health.*

*"Emergency contraception" means medication approved by the U.S. Food and Drug Administration that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.*

*"Follow-up health care" means any physical examination, laboratory tests to determine the presence of sexually transmitted infection, or appropriate medications, including HIV-prophylaxis, provided to a survivor of sexual assault by a health care provider within 90 days after the date on which treatment or transfer services pursuant to this article are first provided.*

*"Forensic medical examination" means health care services provided to a survivor of sexual assault that include medical history, physical examination, laboratory testing, assessment for drug-facilitated or alcohol-facilitated sexual assault, collection of evidence in accordance with the requirements of Chapter 1.2 (§ 19.2-11.5 et seq.) of Title 19.2, and discharge and follow-up health care planning necessary to ensure the health, safety, and welfare of the survivor of sexual assault and the collection and preservation of evidence that may be used in a criminal proceeding.*

*"Hospital" means any hospital licensed by the Department pursuant to this chapter.*

*"Pediatric health care facility" means a hospital, clinic, or physician's office that provides health care services to pediatric patients.*

*"Pediatric survivor of sexual assault" means a survivor of sexual assault who is under 13 years of age.*

*"Physical evidence recovery kit" has the same meaning as in § 19.2-11.5.*

*"Sexual assault forensic examiner" means a sexual assault nurse examiner, physician, physician assistant, nurse practitioner, or registered nurse who has completed training that meets or is substantially similar to the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses.*

*"Sexual assault survivor transfer services" means an appropriate medical examination and such stabilizing treatment as may be necessary prior to the transfer of a sexual assault survivor from a transfer hospital to a treatment hospital in accordance with the provisions of a transfer plan approved by the Department.*

*"Sexual assault survivor treatment services" means a forensic medical examination and other health care services provided to a sexual assault survivor by a hospital in accordance with § 32.1-162.15:4 or pediatric health care facility in accordance with § 32.1-162.15:6.*

*"Transfer hospital" means a hospital with a sexual assault survivor transfer plan approved by the Department.*

*"Transportation service" means transportation provided to a survivor of sexual assault who is transferred from a transfer hospital, treatment hospital, or approved pediatric health care facility to a treatment hospital or approved pediatric care facility pursuant to a transfer plan approved in accordance with this article.*

*"Treatment hospital" means a hospital with a sexual assault survivor treatment plan approved by the*

Department to provide sexual assault survivor treatment services to all survivors of sexual assault who present with a complaint of sexual assault within the previous seven days or who have disclosed past sexual assault by a specific individual and were in the care of that individual within the previous seven days.

**§ 32.1-162.15:3. Services for survivors of sexual assault; plan required.**

A. Every hospital licensed by the Department shall develop and, upon approval by the Department, implement a plan to provide either sexual assault survivor treatment services or sexual assault survivor transfer services for survivors of sexual assault.

B. Sexual assault survivor treatment plans shall include provisions for (i) the delivery of services described in § 32.1-162.15:4 and (ii) the storage, retention, and dissemination of photographic evidence in accordance with § 32.1-162.15:8.

C. Sexual assault survivor transfer service plans shall include (i) provisions for the delivery of services described in § 32.1-162.15:5 and (ii) the written agreement of a treatment hospital to accept transfer of survivors of sexual assault.

D. A treatment hospital for which a plan has been approved pursuant to subsection B or a transfer hospital for which a plan has been approved pursuant to subsection C may enter into an agreement for the transfer of pediatric survivors of sexual assault from the treatment hospital or transfer hospital to an approved pediatric health care facility pursuant to a pediatric sexual assault survivor transfer plan. Such plan shall include (i) provisions for the delivery of services described in § 32.1-162.15:6 and (ii) the written agreement of an approved pediatric health care facility to accept transfer of survivors of sexual assault.

E. Sexual assault survivor treatment plans, sexual assault survivor transfer plans, and pediatric sexual assault survivor transfer plans shall be submitted in a form and in accordance with procedures specified by the Board. The Department shall approve or deny such plans, in writing, within 30 days of receipt of such plans. If the Department denies a plan submitted pursuant to this section, the Department shall provide the hospital with a written statement setting forth the reasons for such denial.

**§ 32.1-162.15:4. Treatment services.**

A. The Board shall adopt regulations to establish standards for review and approval of sexual assault survivor treatment plans, which shall include provisions for the following services, when ordered by a health care provider and with the consent of the survivor of sexual assault:

1. Appropriate forensic medical examination;
2. Appropriate oral and written information concerning the possibility of infection or sexually transmitted disease, including human immunodeficiency virus (HIV) resulting from the sexual assault, accepted medical procedures and medications for the prevention or treatment of such infection or sexually transmitted disease, and the indications, contraindications, and potential risks of such medical procedures or medications;
3. Appropriate evaluations to determine the survivor of sexual assault's risk of infection or sexually transmitted disease, including HIV, resulting from the sexual assault;
4. Appropriate oral and written information regarding the possibility of pregnancy resulting from the sexual assault and medically and factually accurate oral and written information about emergency contraception, the indications and contraindications and potential risks associated with the use of emergency contraception, and the availability of emergency contraception for survivors of sexual assault;
5. Prescriptions of such medications as may be appropriate for treatment of the survivor of sexual assault both during treatment at the hospital and upon discharge, including, in cases in which prophylactic treatment for infection with HIV is deemed appropriate, an initial dose or all required doses of HIV prophylaxis;
6. Oral and written information regarding the need for follow-up care, including examinations and laboratory tests to determine the presence or absence of sexually transmitted infection or disease and follow-up care related to HIV prophylaxis;
7. Information about medical advocacy services provided by a rape crisis center with which the hospital has entered into a memorandum of understanding pursuant to subsection D; and
8. Referral for appropriate counseling and other support services.

B. All appropriate sexual assault survivor treatment services shall be provided without delay in a private location and in an age-appropriate or developmentally appropriate manner.

C. Forensic medical examinations provided pursuant to a sexual assault survivor treatment plan approved by the Board shall include an offer to complete a physical evidence recovery kit. Every treatment hospital for which a sexual assault survivor treatment plan has been approved by the Department shall report to the Department by December 1 of each year:

1. The total number of patients to whom a forensic medical examination was provided; and
2. The total number of physical evidence recovery kits offered and completed.

D. Every treatment hospital shall (i) enter into a memorandum of understanding with at least one rape crisis center for medical advocacy services for survivors of sexual assault and (ii) adopt procedures to ensure compliance with mandatory reporting requirements pursuant to §§ 63.2-1509 and

63.2-1606.

*E. Records of services provided to survivors of sexual assault, including the results of any examination or laboratory test conducted pursuant to subsection A, shall be maintained by the treatment hospital and made available to law enforcement upon request of the survivor of sexual assault. Records of services provided to survivors of sexual assault 18 years of age and older shall be maintained by the hospital for a period of 20 years from the date the record was created. Records of services provided to survivors of sexual assault under 18 years of age shall be maintained for a period of 20 years after the date on which the survivor of sexual assault reaches 18 years of age.*

*F. Every treatment hospital, including every treatment hospital with an approved pediatric sexual assault survivor plan, shall include in its sexual assault survivor treatment plan provisions requiring appropriate health care providers who provide services in the hospital's emergency department to annually complete training developed and made available by the Department on the topic of sexual assault, detection of sexual assault, provision of services for survivors of sexual assault, and collection of evidence in cases involving alleged sexual assault. Such training shall be consistent with best practices outlined by the International Association of Forensic Nurses.*

**§ 32.1-162.15:5. Transfer services.**

*The Board shall adopt regulations to establish standards for review and approval of sexual assault survivor transfer plans and pediatric sexual assault survivor transfer plans, which shall include provisions for the following services, when ordered by a health care provider and with the consent of the survivor of sexual assault:*

*1. Appropriate medical examination and such stabilizing treatment as may be necessary prior to the transfer of a survivor of sexual assault from the transfer hospital to a treatment hospital;*

*2. Medically and factually accurate written and oral information about emergency contraception, the indications and contraindications and potential risks associated with the use of emergency contraception, and the availability of emergency contraception for survivors of sexual assault; and*

*3. Prompt transfer of the survivor of sexual assault to a treatment hospital or approved pediatric health care facility, as may be appropriate, including provisions necessary to ensure that transfer of the survivor of sexual assault or pediatric survivor of sexual assault would not unduly burden the survivor of sexual assault or pediatric survivor of sexual assault.*

**§ 32.1-162.15:6. Services for pediatric survivors of sexual assault; plan required.**

*A. A pediatric health care facility may provide treatment services or transfer services to pediatric survivors of sexual assault in accordance with a pediatric sexual assault survivor treatment plan or pediatric sexual assault survivor transfer plan approved by the Department. No pediatric health care facility shall provide pediatric sexual assault treatment or transfer services to a pediatric survivor of sexual assault unless a pediatric sexual assault survivor treatment plan for the pediatric health care facility has been approved by the Department.*

*B. A pediatric health care facility wishing to provide pediatric sexual assault survivor treatment services shall submit a pediatric sexual assault survivor treatment plan to the Department. The Board shall adopt regulations to establish standards for the review and approval of pediatric sexual assault survivor treatment plans, which shall include provisions for the delivery of treatment services described in § 32.1-162.15:4.*

*In cases in which the pediatric health care facility is not able to provide the full range of treatment services required by § 32.1-162.15:4, the plan shall include (i) the specific treatment services that the pediatric health care facility will provide for pediatric survivors of sexual assault; (ii) provisions for transfer services required by § 32.1-162.15:5 for pediatric survivors of sexual assault for whom treatment services are not provided by the pediatric health care facility; (iii) the written agreement of a treatment hospital to accept transfer of pediatric survivors of sexual assault for whom treatment services are not provided by the pediatric health care facility; and (iv) if the pediatric health care facility does not provide services 24 hours per day, seven days per week, provisions to inform the public regarding the need to seek an alternative source of treatment, including emergency medical services, which may include requirements for appropriate signage.*

*C. A pediatric health care facility wishing to provide pediatric sexual assault survivor transfer services shall submit a pediatric sexual assault survivor transfer plan to the Department. The Board shall adopt regulations to establish standards for review and approval of pediatric sexual assault survivor transfer plans, which shall include provisions for (i) the delivery of sexual assault survivor transfer services in accordance with the requirements of § 32.1-162.15:5 and (ii) the written agreement of a treatment hospital to accept transfer of pediatric survivors of sexual assault.*

*D. Pediatric sexual assault survivor treatment plans and pediatric sexual assault survivor transfer plans shall be submitted in a form and in accordance with procedures specified by the Board. The Department shall approve or deny such plans, in writing, within 30 days of receipt of such plans. If the Department denies a plan submitted pursuant to this section, the Department shall provide the hospital with a written statement setting forth the reasons for such denial.*

**§ 32.1-162.15:7. Inspections; report required.**

*A. The Department shall periodically conduct such inspections of hospitals licensed by the*

Department as may be necessary to ensure that sexual assault survivor treatment plans, sexual assault survivor transfer plans, and pediatric sexual assault survivor transfer plans are implemented in accordance with the requirements of this article.

B. The Department shall report to the Governor and the General Assembly by December 1 of each year on:

1. The name of each hospital that has submitted a sexual assault survivor treatment plan, sexual assault survivor transfer plan, or pediatric sexual assault survivor transfer plan in accordance with the requirements of this section and, for each hospital, the specific type of plan, the date on which the plan was submitted, and the date on which the plan was approved;

2. The name of each hospital that has failed to submit a sexual assault survivor treatment plan, sexual assault survivor transfer plan, or pediatric sexual assault survivor transfer plan in accordance with the requirements of this section;

3. The name of each hospital for which an inspection was performed pursuant to subsection A and for each such hospital, the date of such inspection, and whether the hospital was found to be in compliance with the provisions of the sexual assault survivor treatment plan, sexual assault survivor transfer plan, or pediatric sexual assault survivor transfer plan for such hospital approved by the Department; and

4. For each hospital determined to be out of compliance with the requirements of the sexual assault survivor treatment plan, sexual assault survivor transfer plan, or pediatric sexual assault survivor transfer plan for such hospital approved by the Department, whether a plan of correction was submitted in accordance with the provisions of subsection A.

**§ 32.1-162.15:8. Storage, retention, and dissemination of photographic documentation.**

Photographic documentation collected by a treatment hospital or approved pediatric health care facility shall be maintained by the treatment hospital or approved pediatric health care facility as part of the patient's forensic medical examination. In the case of an anonymous physical evidence recovery kit, photographic documentation shall be maintained by the treatment hospital or approved pediatric health care facility, but the anonymous physical evidence recovery kit shall be maintained in accordance with § 19.2-11.6.

**§ 32.1-162.15:9. Submission of evidence.**

Every treatment hospital and approved pediatric health care facility that provides a forensic medical examination that includes completion of a physical evidence recovery kit to a survivor of sexual assault who has elected to report the assault to law enforcement shall notify the law-enforcement agency with the primary responsibility for investigating an alleged sexual assault within four hours of the forensic medical examination and arrange for collection of the physical evidence recovery kit within a reasonable timeframe. A treatment hospital or approved pediatric health care facility that provides a forensic medical examination that includes completion of a physical evidence recovery kit to a survivor of sexual assault who elects not to report the sexual assault to law enforcement shall comply with the provisions of § 19.2-11.6 relating to anonymous physical evidence recovery kits.

**§ 32.1-162.15:10. Complaints.**

The Department shall establish a process for receiving complaints regarding alleged violations of this article.

**§ 32.1-162.15:11. Task Force on Services for Survivors of Sexual Assault.**

A. There is hereby created the Task Force on Services for Survivors of Sexual Assault (the Task Force), which shall consist of (i) two members of the House of Delegates appointed by the Speaker of the House of Delegates; (ii) one member of the Senate appointed by the Senate Committee on Rules; (iii) the Attorney General, or his designee; (iv) the Commissioners of Health and Social Services, or their designees; (v) the Director of the Department of State Police; (vi) two representatives of hospitals licensed by the Department of Health appointed by the Governor; (vii) three physicians licensed by the Board of Medicine to practice medicine or osteopathy appointed by the Governor, each of whom is a practitioner of emergency medicine and at least one of whom is a pediatrician; (viii) three nurses licensed to practice in the Commonwealth appointed by the Governor, each of whom is a sexual assault nurse examiner; (ix) two representatives of organizations providing advocacy on behalf of survivors of sexual assault appointed by the Governor; and (x) one representative of an organization providing advocacy on behalf of children appointed by the Governor. The Commissioner of Health or his designee shall serve as chairman of the Task Force. Staff support for the Task Force shall be provided by the Department of Health.

B. The Task Force shall:

1. Develop model treatment and transfer plans for use by transfer hospitals, treatment hospitals, and pediatric health care facilities and work with hospitals and pediatric health care facilities to facilitate the development of treatment and transfer plans in accordance with the requirements of this article;

2. Develop model written transfer agreements for use by treatment hospitals, transfer hospitals, and pediatric health care facilities and work with treatment hospitals, transfer hospitals, and pediatric health care facilities to facilitate the development of transfer agreements in accordance with the requirements of this article;

3. *Develop model written agreements for use by treatment hospitals and approved pediatric health care facilities required to enter into agreements with rape crisis centers pursuant to subsection D of § 32.1-162.15:4;*

4. *Work with treatment hospitals and approved pediatric health care facilities to develop plans to employ or contract with sexual assault forensic examiners to ensure the provision of treatment services to survivors of sexual assault by sexual assault forensic examiners, including plans for implementation of on-call systems to ensure availability of sexual assault forensic examiners;*

5. *Work with treatment hospitals and approved pediatric health care facilities to identify and recommend processes to ensure compliance with the provisions of this article related to creation, storage, and retention of photographic and other documentation and evidence;*

6. *Develop and distribute educational materials regarding implementation of the provisions of this article to hospitals, health care providers, rape crisis centers, children's advocacy centers, and others;*

7. *Study and provide recommendations to the Department for the use of telemedicine in meeting the requirements of this article; and*

8. *Report to the Governor and the General Assembly by December 1 of each year regarding its activities and the status of implementation of the provisions of this article.*

**§ 54.1-2910.5. Pediatric sexual assault survivor services; requirements.**

*Any health care practitioner licensed by the Board to practice medicine or osteopathy or as a physician assistant, or jointly licensed by the Board and the Board of Nursing as a nurse practitioner, who wishes to provide sexual assault survivor treatment services or sexual assault survivor transfer services, as defined in § 32.1-162.15:2, to pediatric survivors of sexual assault, as defined in § 32.1-162.15:2, shall comply with the provisions of Article 8 (§ 32.1-162.15:2 et seq.) of Chapter 5 of Title 32.1 applicable to pediatric medical care facilities.*

**§ 54.1-3018.2. Pediatric sexual assault survivor services; requirements.**

*Any person licensed by the Board as a registered nurse who wishes to provide sexual assault survivor treatment services or sexual assault survivor transfer services, as defined in § 32.1-162.15:2, to pediatric survivors of sexual assault, as defined in § 32.1-162.15:2, shall comply with the provisions of Article 8 (§ 32.1-162.15:2 et seq.) of Chapter 5 of Title 32.1 applicable to pediatric medical care facilities.*

**2. That the provisions of this act shall become effective on July 1, 2023, except that the provisions of (i) subsection A of § 32.1-162.15:4 of the Code of Virginia, as added by this act, requiring the Board of Health to adopt regulations to establish standards for the review and approval of sexual assault survivor treatment plans, (ii) § 32.1-162.15:5 of the Code of Virginia, as added by this act, requiring the Board of Health to adopt regulations to establish standards for the review and approval of sexual assault survivor transfer plans and pediatric sexual assault survivor transfer plans, and (iii) § 32.1-162.15:11 of the Code of Virginia, as added by this act, establishing the Task Force on Services for Survivors of Sexual Assault shall become effective in due course.**





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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Virginia Board of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC5-416
<b>VAC Chapter title(s)</b>	Sexual Assault Survivor Treatment and Transfer Regulation
<b>Action title</b>	Promulgation of New Regulation to Implement Chapter 725 of the 2020 Acts of Assembly
<b>Date this document prepared</b>	May 11, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

Chapter 725 (2020 Acts of Assembly) creates Article 8 of Chapter 5 of Title 32.1 of the Code of Virginia, which requires the Board to promulgate regulations to effectuate the act, specifically the standards for review and approval of sexual assault survivor transfer plans, pediatric sexual assault survivor transfer plans, sexual assault survivor treatment plans, and pediatric sexual assault survivor treatment plans. As the requirement to have such plans extends to hospitals, clinics, and physician's offices, there is no already existing regulatory chapter that would best fit this mandate, so the Virginia Board of Health intends to promulgate a new regulatory chapter for these standards.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

“Board” means the Virginia Board of Health.

“PSAS” means pediatric sexual assault survivor.

“SAS” means a sexual assault survivor.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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Chapter 725 (2020 Acts of Assembly) creates Article 8 of Chapter 5 of Title 32.1 of the Code of Virginia, which requires the Board to promulgate regulations to effectuate the act, Specifically, subsection A of § 32.1-162.15:4 of the Code of Virginia requires the Board to adopt regulations to establish standards for review and approval of SAS treatment plans. Section 32.1-162.15:5 of the Code of Virginia requires the Board to adopt regulations to establish standards for review and approval of SAS transfer plans and PSAS transfer plans. Subsection B of § 32.1-162.15:6 of the Code of Virginia requires the Board to adopt regulations to establish standards for the review and approval of PSAS treatment plans; subsection C of that same statute requires the Board to adopt regulations to establish standards for review and approval of PSAS transfer plans.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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Subsection A of § 32.1-162.15:4 of the Code of Virginia requires the Board to adopt regulations to establish standards for review and approval of SAS treatment plans. Section 32.1-162.15:5 of the Code of Virginia requires the Board to adopt regulations to establish standards for review and approval of SAS transfer plans and PSAS transfer plans. Subsection B of § 32.1-162.15:6 of the Code of Virginia requires the Board to adopt regulations to establish standards for the review and approval of PSSA treatment plans; subsection C of that same statute requires the Board to adopt regulations to establish standards for review and approval of PSAS transfer plans. More generally, pursuant to § 32.1-12 of the Code of Virginia, the Board has the authority make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions therefrom as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by it, the State Health Commissioner, or the Department of Health.

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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By enacting Chapter 725 (2020 Acts of Assembly), the General Assembly required the Board to adopt regulations standards for review and approval of SAS transfer plans, PSAS transfer plans, SAS treatment plans, and PSAS treatment plans. In order to ensure that such regulations protect the health, safety, and welfare of citizens, it is necessary to assess relevant treatment and transfer protocols as well as current standards of practice to determine what should be included or incorporated into the regulatory text. The Board may also address other issues that arise as a result of this Notice.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

This regulation must contain the standards for review and approval of SAS transfer plans, PSAS transfer plans, SAS treatment plans, and PSAS treatment plans. Treatment plan standards must include forensic medical examination; information concerning the possibility of infection or sexually transmitted disease and accepted medical procedures and medications for the prevention or treatment of such infection; evaluations to determine the survivor of sexual assault's risk of infection; information regarding the possibility of pregnancy and emergency contraception; prescriptions of such medications as may be appropriate; information regarding the need for follow-up care; information about medical advocacy services provided by a rape crisis center; and referral for counseling and other support services. Transfer plan standards must include medical examination and such stabilizing treatment as may be necessary prior to the transfer; information about emergency contraception; and prompt transfer that would not unduly burden a SAS or PSAS. The intention of the Board is to ensure the regulatory language fulfills the Board's responsibilities under § Article 8 of Chapter 5 of Title 32.1 of the Code of Virginia. Revisions to the regulation content may be proposed based on public comments received.

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

No alternative was considered because the General Assembly requires the Board to adopt regulations governing the review and approval of SAS transfer plans, PSAS transfer plans, SAS treatment plans, and PSAS survivor treatment plans.

## Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."*

This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, Office of Licensure and Certification, 9960 Mayland Drive, Suite 401, Henrico, VA 23233; email: [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov); fax: (804) 527-4502. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

# TASK FORCE ON SERVICES FOR SURVIVORS OF SEXUAL ASSAULT

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2020 ANNUAL REPORT

DRAFT

VIRGINIA DEPARTMENT OF HEALTH  
OFFICE OF LICENSURE AND CERTIFICATION  
DIVISION OF ACUTE CARE SERVICES

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## PREFACE

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The Task Force on Services for Survivors of Sexual Assault (Task Force) is submitting this report in response to the requirements in Chapter 725 of the 2020 Acts of Assembly, which enacted Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia related to treatment services and transfer services of adult and pediatric survivors of sexual assault. The newly enacted Va. Code § 32.1-162.15:11(B)(8) requires the Task Force to “[r]eport to the Governor and the General Assembly by December 1 of each year regarding its activities and the status of implementation of the provisions of [Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia].”

As of December 1, 2020, the Task Force did not yet have 10 members appointed, which would constitute a quorum, and has been unable to meet.

### MEMBERS OF TASK FORCE

**The Honorable Jennifer B. Boysko** – Senator, Senate of Virginia  
**The Honorable Kelly K. Convirs-Fowler** – Delegate, House of Delegates of Virginia  
**The Honorable Karrie K. Delaney** – Delegate, House of Delegates of Virginia  
**The Honorable Mark R. Herring** – Attorney General  
**M. Norman Oliver, MD, MA** – Commissioner, Virginia Department of Health  
**Colonel Gary T. Settle** – Superintendent, Virginia State Police  
**S. Duke Storen, PhD, MA** – Commissioner, Virginia Department of Social Services  
**Dawn Schaff, MSN, RN, SANE-P** – Representative of licensed hospital  
**Robin L. Foster, MD** – Representative of licensed hospital  
**Scott E. Sparks, MD, MS, RDMS, RDCS, FACEP** – Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine  
**Lindsey N. Caley, MD** – Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine  
**Brooke Burkhart Thomas, MD** – Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine and who is a pediatrician  
**Bonnie Price, DNP, RN, SANE-A, SANE-P, AFN-BC** – Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner  
**Melissa Ratcliff Harper, MSN, APRN, SANE-A, SANE-P** – Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner  
**Sara Jennings, DNP, RN, SANE-A, SANE-P, AFN-BC** – Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner  
**Chatonia "Toni" Zolicoffer, LPC** – Representative of an organization providing advocacy on behalf of survivors of sexual assault  
**Patricia McComas Hall** – Representative of an organization providing advocacy on behalf of survivors of sexual assault  
**Jeanne Parrish, DNP, LNP, FNP-C, EMT-P** – Representative of an organization providing advocacy on behalf of children

### STAFF TO THE TASK FORCE

**Rebekah E. Allen, JD** – Senior Policy Analyst, Office of Licensure and Certification, Virginia Department of Health  
**Kimberly F. Beazley** – Director, Office of Licensure and Certification, Virginia Department of Health  
**Alexandra Jansson, MPP** – Policy Analyst, Governmental and Regulatory Affairs, Virginia Department of Health  
**Ruthanne Risser, RN** – Deputy Director, Office of Licensure and Certification, Virginia Department of Health

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## EXECUTIVE SUMMARY

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The Task Force on Services for Survivors of Sexual Assault (Task Force) was created by Chapter 725 of the 2020 Acts of Assembly to assist in the implementation of the treatment and transfer requirements placed on hospitals and pediatric health care facilities for adult and pediatric survivors of sexual assault. The primary responsibilities of this 18-member Task Force is to develop model documents, plans, and processes for these facilities to use, to educate these facilities on their obligations in treating or transferring survivors of sexual assault, and to increase the use of telemedicine in providing services to survivors of sexual assault.

Due to the coronavirus disease 2019 (COVID-19) pandemic, appointments to the Task Force have progressed at a slower rate and as of December 1, 2020, there was not a sufficient number of appointees to the Task Force to constitute a quorum. While appointments were proceeding, the State Board of Health has initiated a standard regulatory action to promulgate a new regulatory chapter that will detail the requirements hospitals and pediatric health care facilities must meet to satisfy the provisions of Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia. The first stage of this standard regulatory action has been published and a public comment period held, during which no public comments were received. The second stage of this standard regulatory action is in progress.

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## INTRODUCTION

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Chapter 725 of the 2020 Acts of Assembly created Article 8, *Services for Survivors of Sexual Assault* (§ 32.1-162.15:2 *et seq.*), in Chapter 5 of Title 32.1 of the Code of Virginia. This article requires hospitals and pediatric health care facilities to have plans approved by the Virginia Department of Health (VDH) to address the transfer and treatment of adult and pediatric survivors of sexual assault. This article also created a Task Force on Services for Survivors of Sexual Assault (Task Force), which is supported by VDH staff and is comprised of the following members<sup>1</sup>:

*... (i) two members of the House of Delegates appointed by the Speaker of the House of Delegates; (ii) one member of the Senate appointed by the Senate Committee on Rules; (iii) the Attorney General, or his designee; (iv) the Commissioners of Health and Social Services, or their designees; (v) the Director of the Department of State Police; (vi) two representatives of hospitals licensed by the Department of Health appointed by the Governor; (vii) three physicians licensed by the Board of Medicine to practice medicine or osteopathy appointed by the Governor, each of whom is a practitioner of emergency medicine and at least one of whom is a pediatrician; (viii) three nurses licensed to practice in the Commonwealth appointed by the Governor, each of whom is a sexual assault nurse examiner; (ix) two representatives of organizations providing advocacy on behalf of survivors of sexual assault appointed by the Governor; and (x) one representative of an organization providing advocacy on behalf of children appointed by the Governor...*

## REPORT MANDATE

Va. Code § 32.1-152.15:11(B)(8) requires the Task Force to “[r]eport to the Governor and the General Assembly by December 1 of each year regarding its activities and the status of implementation of the provisions of [Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia].”

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## TASK FORCE ACTIVITIES

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The Task Force consists of 18 members and thus, a quorum for the purposes of holding a meeting would require 10 members. As of December 1, 2020, the Task Force did not yet have 10 members appointed and was unable to meet. The coronavirus disease 2019 (COVID-19) pandemic has impacted multiple secretariats within the Commonwealth as well as the Governor’s office. This impact, which resulted in staff time and other resources being redirected to address and mitigate the threat of COVID-19, meant that gubernatorial appointments were prioritized lower than they otherwise would have been in the absence of the pandemic. The Secretary of the Commonwealth was soliciting and accepting nominations for persons to serve on the Task Force during calendar year 2020, but the Task Force did not have enough members to attain a quorum and convene a meeting on or before December 1, 2020.

When a sufficient number of persons have been appointed to the Task Force, it will begin meeting so that it can fulfill the seven responsibilities prescribed by Va. Code § 32.1-162.15:11(B):

- Develop model treatment and transfer plans and work with hospitals and pediatric health care facilities to facilitate the development of treatment and transfer plans;

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<sup>1</sup> Va. Code § 32.1-162.15:11(A).

- Develop model written transfer agreements and work with treatment hospitals, transfer hospitals, and pediatric health care facilities to facilitate the development of transfer agreements;
- Develop model written agreements for use by treatment hospitals and approved pediatric health care facilities required to enter into agreements with rape crisis centers;
- Work with treatment hospitals and approved pediatric health care facilities to develop plans to employ or contract with sexual assault forensic examiners for treatment services to survivors of sexual assault by sexual assault forensic examiners, including plans for implementation of on-call systems to ensure availability of sexual assault forensic examiners;
- Work with treatment hospitals and approved pediatric health care facilities to identify and recommend processes to ensure compliance related to creation, storage, and retention of photographic and other documentation and evidence;
- Develop and distribute educational materials regarding implementation to hospitals, health care providers, rape crisis centers, children's advocacy centers, and others; and
- Study and provide recommendations to VDH for the use of telemedicine in meeting the requirements of Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia.

As noted above, a quorum of members have not been appointed to the Task Force, so the Task Force has not begun implementation of any of the listed responsibilities.

While the appointments to the Task Force are ongoing, the State Board of Health (Board) has initiated a standard regulatory action to promulgate regulations pursuant to the authority granted in Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia. The Board intends to create a new regulatory chapter, 12VAC5-416, to address the newly enacted provisions and requirements on hospitals and pediatric health care facilities. The first stage of the standard regulatory action, the Notice of Intended Regulatory Action (NOIRA), was published in *The Virginia Register of Regulations* on March 1, 2021 and a 30-day public comment period started upon its publication, during which time no public comments were received. Following publication of the NOIRA, the next steps in a standard regulatory action is the Proposed stage, on which VDH staff are currently working and which will be presented to the Board for approval. Once approved, the Proposed stage will be subject to executive branch review; provided that it is favorably reviewed, the Board will then submit the Proposed stage for publication in *The Virginia Register of Regulations* and a 60-day public comment period will commence upon its publication. The Proposed stage will then be followed by the Final stage.

# Bylaws of the Task Force on Services for Survivors of Sexual Assault

## ARTICLE I. APPLICABILITY

### Section 1. General.

The provisions of these Bylaws are applicable to all proceedings of the Task Force on Services for Survivors of Sexual Assault (Task Force) to the extent that the same are not otherwise governed by the requirements set forth in the Code of Virginia or by Executive Order. Whenever the provisions and authorizations of these Bylaws are in conflict with the provisions and authorizations mandated by the Code of Virginia or by Executive Order, the latter shall control.

### Section 2. Authority and Limitations.

The Task Force is constituted under Va. Code §§ 2.2-2100 and 32.1-162.15:11 as an “Advisory Board.” As an advisory board pursuant to Va. Code § 2.2-2100, the Task Force is specifically charged with the duties and responsibilities set forth in the basic law governing the actions of the Task Force, as generally established in Title 32.1, as well as in such other Titles of the Code of Virginia. As set forth in and consistent with the basic law, the Task Force may participate in the development of public policy by providing comment and advice to the State Board of Health (Board), but may not promulgate public policies or regulations, set rates, distribute federal funds, or adjudicate regulatory or statutory violations.

### Section 3. Members

The Task Force shall consist of:

- members of the House of Delegates appointed by the Speaker of the House of Delegates;
- a member of the Senate appointed by the Senate Committee on Rules;
- the Attorney General or his designee;
- the Commissioner of Health or his designee;
- the Commissioner of Social Services or his designee;
- the Director of the Department of State Police or his designee; and
- residents of the Commonwealth meeting the eligibility criteria specified in Va. Code § 32.1-162.15:11(A) who are appointed by the Governor.

### Section 4. Vacancies

Staff from the Virginia Department of Health (Department) shall notify the relevant appointing authority of the pending or actual departure or resignation of a former incumbent.

- A gubernatorial vacancy of a citizen member other than by expiration of the term shall be filled by the Governor for the unexpired term.
- A legislative vacancy from the House of Delegates other than by expiration of the term shall be filled by the Speaker of the House of Delegates for the unexpired term.
- A legislative vacancy from the Senate other than by expiration of the term shall be filled by the Senate Committee on Rules for the unexpired term.
- A vacancy of the Commissioner of Health other than by expiration of the term shall be filled by the acting replacement or his designee for the unexpired term, until such time as the Governor appoints a new Commissioner of Health.
- A vacancy of the Commissioner of Social Services other than by expiration of the term shall be filled by the acting replacement or his designee for the unexpired term, until such time as the Governor appoints a new Commissioner of Social Services.
- A vacancy of the Director of the Department of State Police other than by expiration of the term shall be filled by the acting replacement or his designee for the unexpired term, until such time as the Governor appoints a new Director of the Department of State Police.
- A vacancy of the Attorney General other than by expiration of the term shall be filled by the acting replacement or his designee for the unexpired term, until such time as a new Attorney General is elected.

## Section 5. Representation.

When the Task Force is requested to appear before the Board, the General Assembly, or any legislative or study committees, the Task Force shall be represented by the State Health Commissioner or his designee or by duly designated member(s) who are nominated by the Chair and when practicable, confirmed by the Task Force.

Individual members of the Task Force may provide comments to the media, social media, local, state, or federal officials, or members of the public. Any comments made shall be identified as the member's personal views and not the position of the Task Force unless the member has been authorized by the Task Force to express its official position.

## Section 6. Orientation.

All new members appointed to the Task Force shall receive an orientation from the Virginia Department of Health (Department) that includes information about the roles and responsibilities of the Task Force; the committee structure and Bylaws of the Task Force; the roles and responsibilities of the Department and the Board; and the Virginia Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*).

## ARTICLE II. MEETINGS

### Section 1. Regular Meetings.

Regular meetings of the Task Force shall be held on a routine basis at such time and place as the Task Force may determine. No business requiring a vote or final decision of the Task Force may be conducted in the absence of a quorum, as defined under Article II, Section 6 of these Bylaws.

### Section 2. Annual Meetings.

The first regular meeting held in the state fiscal year shall be designated as the Annual Meeting. Elections shall be held at the Annual Meeting.

### Section 3. Committee Meetings.

The committees as the Task Force or Chair may designate, pursuant to Article IV of these Bylaws, may convene at such times as may be established by each committee; provided, however, that all such meetings are open to the public and comply with the notice requirements set forth in the Virginia Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*)

### Section 4. Special Meetings.

The Chair or any four members of the Task Force may call a special meeting for a specific purpose or purposes. No business shall be transacted at a special meeting except that expressly set out in the notice of the special meeting.

### Section 5. Notice of Meeting.

Public notice of meetings shall be provided in accordance with the requirements of the Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*).

### Section 6. Quorum.

Eight members of the Task Force shall constitute a quorum for the transaction of any lawful business.

### Section 7. Conduct of Meetings.

The Chair shall preside over all meetings of the Task Force, except that, in the absence or disability of the Chair, the Vice Chair shall preside. A staff member of the Department designated by the Chair shall serve as Secretary or, with the approval of the Task Force, shall name his designee to serve as Secretary. The Secretary or Secretary-designees shall provide staff support, record all minutes of the meetings, and record in a minute book all resolutions adopted and all transactions occurring at the meeting.

The then-current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Task Force when not in conflict with statutory requirements set forth in the Code of Virginia or Executive Orders. Pursuant to Va. Code § 2.2-3710, the Task Force shall not vote by written or secret ballot. All voting shall be accomplished by voice vote, show of hands, or roll-call vote.

### Section 8. Closed Session.

Prior to meeting in a closed session, the Task Force must vote affirmatively to do so and must announce the purpose of the session. This purpose shall consist of one or more of the purposes for which a closed session is permitted in accordance with the Virginia Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*). Minutes may be taken during a closed session but are not required. Such minutes shall not be subject to mandatory public disclosure.

### Section 9. Official Records.

All official records of the Task Force shall be kept on file at the Department and shall be open to inspection as required by law. All files shall be kept in accordance with the applicable records retention and disposition schedule maintained by the Library of Virginia in accordance with the Virginia Public Records Act (Va. Code § 42.1-76 *et seq.*).

## ARTICLE III. OFFICERS

### Section 1. Number and Title.

The officers of this Task Force shall be as follows:

1. Chair
2. Vice Chair
3. Secretary, who shall be a staff member of the Department designated by the Chair or, with the approval of the Task Force, his designee

### Section 2. Duties.

The duties of the officers shall be those usually incident to the respective office and such other special duties as may, from time to time, be specified by the Task Force. Except for the Secretary, officers shall be elected annually and shall assume their duties at the close of the meeting at which they are elected.

### Section 3. Vacancies.

Vacancies in the position of Chair shall be filled for the remainder of the term by filled by the acting replacement or his designee for the unexpired term, until such time as the Governor appoints a new Commissioner of Health following the departure or resignation of the former incumbent. Vacancies in the

position of Vice Chair shall be filled for the remainder of the term by voice vote, show of hands, or roll-call vote of the Task Force at its next full meeting following the departure or resignation of the former incumbent. Vacancies in the position of Secretary shall be filled by a staff member of the Department designated by the Chair.

## ARTICLE IV. COMMITTEES

### Section 1. Creation of Committees.

The Task Force or Chair, as its or his discretion, may appoint such other committees of its members as it may deem advisable and may designate the responsibilities of any such committees.

### Section 2. Vacancies.

Vacancies arising on any committee established by the Task Force or Chair may be filled for the unexpired term by the Task Force at its next full meeting.

## ARTICLE V. ELECTIONS

### Section 1. Nominations.

Nominations for Vice Chair and members of any committee established pursuant to Article IV may be made by a nominating committee appointed by the Chair or the Task Force for that purpose. Additional nominations may be received by voice from the floor.

### Section 2. Voting.

Elections of officers and committee members must be conducted in open session of at least a quorum of the Task Force by voice vote, show of hands, or roll-call vote, as required by Va. Code § 2.2-3710. Election to office or committee membership shall be determined by a simple majority of those present and voting.

## ARTICLE VI. AMENDMENTS TO THE BYLAWS

The Task Force shall review and amend the Bylaws as necessary. At a minimum, the Task Force shall review its Bylaws every four years. The Bylaws of the Task Force may be amended at any regular meeting of the Task Force at which at least a quorum is present by an affirmative vote of two-thirds of the Task Force membership present and voting, provided that the amendment has been submitted in writing at the previous regular meeting.

These Bylaws are effective on **DATE**, and until subsequently amended.

---

M. Norman Oliver, MD, MA  
State Health Commissioner  
Chair, Task Force on Services for Sexual Assault Survivors

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1.0 Purpose

This document was created to comply with the requirements of Code of Virginia § [2.2-3708.2\(C\)](#), which requires that any public body who wishes to allow its members to participate in public meetings through electronic means to adopt a written policy governing electronic participation.

2.0 Scope

This document applies to all members of the Task Force on Services for Survivors of Sexual Assault. This document supplements any agency-wide policy on electronic participation in public meetings and to the extent there is a conflict between an agency-wide policy and this policy, the agency-wide policy supersedes. If an exception to the physical quorum requirement has been provided by the current budget bill (e.g., [Item 4-0.01\(g\) of Chapter 56 of the 2020 Acts of Assembly, Special Session I](#) and [Item 4-0.01\(g\) of Chapter 552 of the 2021 Acts of Assembly, Special Session I](#)), the provisions of the budget bill shall supersede this document.

### 3.0 Definitions

Office of Licensure and Certification (OLC): An office within VDH that administers licensing programs for hospitals, outpatient surgical hospitals, nursing facilities, home care organizations, and hospice programs; administers certification and registration program for managed care health insurance plans and private review agents; administers the certificate of public need program; is the state survey agency for Medicare and Medicaid; and provides primary staffing support for the Task Force.

Task Force on Services of Survivors of Sexual Assault (Task Force): A task force created pursuant to Code of Virginia § [32.1-162.15:11](#) that is composed of a mix of legislators, executive branch agency leaders, and citizens appointed by the Governor.

Virginia Department of Health (VDH): An executive branch agency in the Commonwealth of Virginia that assists the State Board of Health and State Health Commissioner with administering and providing a comprehensive program of preventive, curative, restorative and environmental health services; educating the citizenry in health and environmental matters; developing and implementing health resource plans; collecting and preserving vital records and health statistics; assisting in research; and abating hazards and nuisances to the health and to the environment, both emergency and otherwise.

Virginia Freedom of Information Act (FOIA): State law (Code of Virginia § [2.2-3700 et seq.](#)) that governs the release of public records and the procedures for public meetings.

### 4.0 Authorities

Code of Virginia §§ [2.2-3707](#), [2.2-3708.2](#), and [32.1-162.15:11](#)

### 5.0 Responsibilities

#### 5.1 Task force chair

The Task Force chair is the State Health Commissioner or his designee. The Task Force chair is responsible for receiving requests from Task Force members to participate electronically and for ensuring the approval of electronic participation is sought as outlined in this document.

#### 5.2 Task force members

The Task Force members have been appointed to the Task Force pursuant to Code of Virginia § [32.1-162.15:11\(A\)](#). The Task Force members are responsible for timely contacting the Task Force chair if they cannot attend a meeting and familiarizing themselves with this document.

#### 5.3 VDH OLC staff

VDH OLC staff is responsible for distribution of Task Force meeting materials to the public and to compiling the annual report on electronic participation. This responsibility may be shared between VDH OLC's Senior Policy Analyst and additional staff at VDH.

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## 6.0 Policy

Individual Task Force members may participate in meetings of the Task Force by electronic communication means as permitted by Code of Virginia § [2.2-3708.2](#). This policy shall apply to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

Whenever an individual member is to participate from a remote location, the following conditions must be present:

- a. A quorum of the Task Force must be physically assembled at the primary or central meeting location.
- b. There must be arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.
- c. The reason that the member is unable to attend the meeting and the remote location from which the member participates must be recorded in the meeting minutes.

Additionally, if three or more Task Force members are participating from a single remote location, that location is required to be open to the public.

In the event that a Task Force member participates electronically due to a personal matter, such electronic participation is limited by law to two meetings each calendar year. There is no statutory limit on the number of meetings in which a Task Force member may participate electronically if the member's lack of physical attendance is due to a temporary or permanent disability or other medical condition.

### 6.1 Physical quorum exception

An exception to the physical quorum requirement occurs if the Governor has declared a state of emergency, provided that:

- a. the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location; and
- b. the purpose of the meeting is to address the emergency.

## 7.0 Procedures

### 7.1 Electronic participation request and approval

1. On or before the day of the meeting, a Task Force member must notify the Task Force chair that he or she is unable to attend the meeting due to:
  - a. a temporary or permanent disability or other medical condition that prevents the Task Force member's physical attendance; or
  - b. a personal matter and identifies with specificity the nature of the personal matter.
2. At the beginning of the Task Force meeting after the determination of a quorum but prior to discussion of all other public business, the Task Force chair shall identify the Task Force member who wishes to participate electronically, the reason for his or her request, and the location from which the individual is participating.

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3. If the Task Force member is requesting to participate electronically due to a personal reason, the Task Force chair will inquire if any Task Force member at the primary or central meeting location wishes to challenge the electronic participation of the requesting Task Force member.
4. In the absence of a challenge, individual participation from a remote location is be approved unless such participation would violate this policy or the provisions of FOIA.
5. If individual participation from a remote location is challenged, then the Task Force members at the primary or central meeting location shall vote whether to allow such participation.

## 7.2 Meeting minutes

1. The Task Force shall comply with the public meeting minutes requirements in Code of Virginia § [2.2-3707\(H\)](#).
2. If a Task Force member is participating electronically, the Task Force shall also record the following information:
  - a. If individual participation from a remote location is challenged, the vote on that challenge;
  - b. The remote location from which the member participated;
  - c. The reason why a Task Force member is participating from a remote location; and
  - d. All votes in a roll-call fashion.
3. If a Task Force meeting is being held through electronic means due to a state of emergency, the Task Force shall also record:
  - a. The nature of the emergency;
  - b. All votes in a roll-call fashion;
  - c. That the meeting is being held by electronic communication means; and
  - d. The type of electronic communications utilized.

## 7.3 Public participation

1. The Task Force shall comply with the notice of public meeting requirements in Code of Virginia § [2.2-3707\(C\)](#).
2. If a Task Force member is participating electronically, the Task Force shall also include the following information:
  - a. Any remote locations from which a Task Force member intends to participate;
  - b. The electronic means by which a member of the public may observe or listen to the meeting; and
  - c. A telephone number to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting.
3. The Task Force shall afford every member of the public attending either the remote location or the primary or central location to offer public comment.
4. The Task Force shall suspend its meeting if any interruption in the telephonic or video broadcast of the meeting occurs and shall not resume until repairs are made and public access is restored.
5. VDH OLC staff shall make available to members of public attending either the remote location or the primary or central location with the Electronic Meetings Public Comment Form.

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6. VDH OLC staff shall provide the proposed agenda and agenda packets to the public at the same time those materials are furnished to the Task Force members, by:
  - a. Electronically posting the material on Virginia Regulatory Town Hall;
  - b. Electronically posting the material on VDH OLC’s “Task Force on Services for Survivors of Sexual Assault” webpage;
  - c. Making available physical copies at VDH OLC’s office; and
  - d. Making available physical at the Task Force meeting’s primary or central location and, if access to remote locations is afforded, at the remote location(s).
7. If a Task Force meeting is being held through electronic means due to a state of emergency, the Task Force shall also:
  - a. Give public notice using the best available method given the nature of the emergency, which must be given contemporaneously with the notice provided to Task Force members; and
  - b. Make arrangements for public access to such meeting.

7.4 [Annual reporting](#)

1. Within 5 business days after the date of each Task Force meeting, VDH OLC staff shall complete the Electronic Meeting Annual Reporting Form.
2. Within 10 business days after the date of each Task Force meeting, VDH OLC staff shall submit all completed copies of the Electronic Meeting Annual Reporting Form to the VDH FOIA Officer for review.
3. On or before December 15 of each calendar year, the VDH FOIA Officer shall submit all completed copies of the Electronic Meeting Annual Reporting Form to the Virginia Freedom of Information Advisory Council.

8.0 Forms and Templates

[Electronic Meetings Public Comment Form](#)

[Electronic Meetings Annual Reporting Form](#)

9.0 References

None.

10.0 History

Revision	Date	Author	Reviewer	Approver	Description
1.00.00	TBD	Allen, Rebekah E.			Creation of policy

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