

**BOARD OF OPTOMETRY
BOARD MEETING
JANUARY 24, 2003**

TIME AND PLACE: The meeting was called to order at 12:15 a.m. on Friday, January 24, 2003, at the Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 3, Richmond, Virginia.

PRESIDING OFFICER: Samuel C. Smart, O.D.

MEMBERS PRESENT: Thomas R. Cheezum, O.D.
David H. Hettler, O.D.
Roxann L. Robinson, O.D.
Paula H. Boone, O.D.

MEMBERS NOT PRESENT: Jeff Smith, Citizen Member

STAFF PRESENT: Elaine Yeatts, Policy Analyst
Elizabeth A. Carter, Ph.D., Executive Director
Carol Stamey, Administrative Assistant

OTHERS PRESENT: Amy Tarker, McSweeney & Crump
Kevin Green, Optometrist
Bill Ferguson, Board for Opticians

QUORUM: With five members of the Board present, a quorum was established.

PUBLIC COMMENT: Dr. Green presented public comment under Board Discussion.
Mr. Ferguson informally presented public comment under New Business.

REVIEW AND APPROVAL OF AGENDA: The agenda item "Discussion of Case-related Information" was discussed in closed session with Board Counsel, Howard Casway. The agenda item "Discussion of Independent Practice as a Proprietor verses an Employee" was discussed in open session with Board Counsel, Howard Casway.

Dr. Cheezum requested that the subject of CE sponsorship be added to the agenda.

APPROVAL OF MINUTES: On properly seconded motion by Dr. Robinson, the Board voted unanimously to approve the minutes of the September

'27, 2002 meeting.

BOARD DISCUSSION:

Review of Agency Tracked Legislation

Ms. Yeatts presented a brief overview of the current legislation that may impact the practice of optometry. The bill tracking summary of the legislation is incorporated into the minutes as Attachment 1.

Ms. Yeatts specifically addressed HB1441 noting its origin and a detailed summary of the effects it may have on the disciplinary processes of the Boards within the agency.

CPT Codes

Dr. Green presented research on CPT Code 65600 and it is incorporated into minutes as Attachment 2.

On properly seconded motion by Dr. Hettler, the Board voted unanimously to approve the addition of CPT Code 65600, multiple punctures of anterior cornea (eg, for corneal erosion), with the exclusion of tattoos.

On properly seconded motion by Dr. Cheezum, the Board voted unanimously to approve CPT Code 92135, scanning computerized ophthalmic diagnostic imaging (eg, scanning laser) with interpretation and report.

On properly seconded motion by Dr. Robinson, the Board voted unanimously to approve the procedure, pachymetry, currently listed under the temporary CPT Code 0025T.

CE Requirements for the New Renewal Period

On properly seconded motion by Dr. Hettler, the Board voted unanimously to allow CE credits obtained in November/December 2002 to be applied towards the 2003 licensure renewal period.

What Constitutes Record Keeping for Patient Care

It was the consensus of the Board that 18 VAC 105-20-45, Standards of Practice, of the Regulations of the Board of Optometry, serve as guidance for obtaining CE relating to patient care.

Guidance Document for CE Sponsors

As an informal means to inform CE providers regarding sponsorship (18 VAC 105-20-70), Dr. Cheezum submitted a guidance document for reference by Board staff to address

the concerns of CE providers. Additionally, the Board requested that staff write letters to all CE providers informing them of the new regulations regarding CE policy. Specifically, that the letters include a check-off list of the new CE requirements, requirements for CE certificates with regard to audit and that the current CE sponsor application become a guidance document for reference.

Ms. Stamey gave a brief update on the statistics regarding the 2002 CE audit. The statistics reflected that a total of 201 licensees had been audited for CE. Of the 201 licensees audited, 6 licenses expired, 4 did not renew by letter, 1 CE waiver, 2 deceased, 2 VA licenses expired with reinstatement packets and 1 no response.

The Board requested that staff forward certified expired letters to the 2 licensees with VA addresses.

COMMITTEE REPORTS:

Professional Designation Committee

Dr. Checzum noted that with regard to professional designation applications, there continued to be misunderstanding of the requirements of the regulations.

PRESIDENT'S REPORT:

Dr. Smart reported that last fall he had attended the ARBO Endorsement Committee meeting. He noted that it is still a viable means in terms of working up ARBO becoming an endorsement vehicle for the state.

Dr. Smart also reported that he will be attending the ARBO meeting in June.

EXECUTIVE DIRECTOR'S REPORT:

Dr. Carter reported that ARBO is now collecting data regarding patient harm caused by the dispensing of invalid contact lens prescriptions through a survey form located on its website. A copy of the survey form is incorporated into the minutes as Attachment 3.

The Board requested that the optometry board's website link to ARBO's survey form and that the newsletter contain the link.

Statistics and Budget Update

Dr. Carter reported the number of licensees is approximately 1300 and the average number (68) of licensees that did not renew this renewal period remained the same. She noted that the number of complaints is extremely low and that the Board

had closed approximately 30 cases between July 2002 and January 2003. Dr. Carter further reported that the standard of care cases had resolved itself. The current case issues appeared to be business practice, advertising and compliance.

Dr. Carter reported that Mr. Nebiker had requested that any proposals for fee reduction be submitted after the end of the physical year.

NEW BUSINESS:

Dr. Carter reported that Jeff Smith, Citizen Member of the Board, had submitted his letter of resignation due to health issues.

Bill Ferguson, Executive Director for the Board for Opticians, gave a brief report of his Board's activities.

ADJOURNMENT:

The Board concluded its meeting at 1:50 p.m.

Samuel C. Smart, O.D., President

Elizabeth A. Carter, Ph.D., Executive Director

Attachment 1

[summary](#) | [pdf](#)

034205944

HOUSE BILL NO. 1899

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to ensure support for enrollments at certain accredited schools of optometry.

Patrons-- Stump; Senator: Puckett

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. § 1. *That, at such time as the General Assembly may provide funding to support enrollments of Virginia students in accredited schools of optometry, such funding shall be allocated first to support enrollments of such students at accredited schools of optometry in the Commonwealth.*

Legislative Information System

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(MyProfile) created on 01/07 at 13:22

HB 1402 Parental consent for abortion.

Summary as introduced:

Parental consent for abortion. Requires a physician to obtain parental consent prior to performing an abortion on an unemancipated minor. Under current law, the parents of the minor must be notified of the abortion, but do not have to give consent.

Patrons: Black, Abbitt, Armstrong, Athey, Bell, Bryant, Byron, Callahan, Carrico, Cline, Cole, Cosgrove, Cox, Devolites, Dudley, Gear, Hargrove, Hogan, Howell, Hugo, Ingram, Janis, Johnson, Jones, S.C., Kilgore, Landes, Lingamfelter, Louderback, Marrs, Marshall, D.W., Marshall, R.G., May, McDonnell, McDougle, McQuigg, Nixon, Nutter, O'Bannon, Oder, Orrock, Parrish, Putney, Rapp, Reese, Reid, Rollison, Rust, Saxman, Sears, Sherwood, Stump, Thomas, Ware, Weatherholtz, Welch and Wright; *Senators:* Bolling, Colgan, Cuccinelli, Hanger, Hawkins, Martin, Miller, K.G., Mims, Newman, Norment, O'Brien, Puckett, Rerras, Ruff, Stolle, Stosch, Trumbo, Wagner and Williams

01/08/03 House: Presented & ordered printed, prefiled 09/30/02 038777636

01/08/03 House: Referred to Committee for Courts of Justice

HB 1441 Health regulatory boards; disciplinary procedures; report requirements.

Summary as introduced:

Health regulatory boards; disciplinary procedures and reporting requirements. Lowers the disciplinary standard for persons licensed by the Board of Medicine from gross negligence to simple negligence. The bill creates a confidential consent agreement that may be used by a health regulatory board (board), in lieu of discipline, only in instances where there is not probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients, (ii) caused serious patient harm through negligence or (iii) conducted his practice in a manner as to be a danger to patients or the public. Such agreement will include findings of fact and may include an admission or a finding of a violation. Such agreement may be used by a board in future disciplinary proceedings. A board may enter into a confidential consent agreement with a practitioner involving a standard of care violation only once every 10 years. The bill provides that before reinstatement to practice, a 3-year minimum period must elapse after the revocation of the certificate, registration or license of any person regulated by one of the boards; however, individuals who have had their licenses revoked by a health regulatory board are grandfathered and subject to provisions concerning reinstatement in effect prior to July 1, 2003. Existing reporting requirements by hospitals, health care institutions, health professionals and others concerning disciplinary actions, certain disorders, malpractice judgments, and settlements are clarified concerning timing for the reports and the information required to be reported to the Board of Medicine. Civil penalties for failure to report are increased up to a maximum of \$25,000 for hospitals and health institutions and \$5,000 for all others. Certification, registration and licensure are conditioned upon the payment of such penalties. The confidentiality of the reported information is clarified. In addition, the Department of Health Professions' biennial reporting requirements on disciplinary actions by each of the health regulatory boards is clarified. The Department is given increased authority to regulate unlicensed practice and is directed to investigate all complaints within the jurisdiction of the relevant health regulatory board. Finally, the bill provides that a mental health services provider shall have a duty to report the misconduct of another such provider to the Department.

000011

Patrons: Sears, Cole, Dudley, Jones, S.C. and Suit

01/21/03 House: Committee substitute printed 033139930-H1
 01/22/03 House: Read first time
 01/23/03 House: Read second time
 01/23/03 House: Committee substitute agreed to 033139930-H1
 01/23/03 House: Engrossed by House - committee substitute 033139930-H1

HB 1541 Partial birth infanticide.

Summary as introduced:

Partial birth infanticide. Defines "partial birth infanticide" as deliberately and intentionally vaginally delivering a living infant until, in the case of a head-first presentation, the infant's entire head is outside the body of the mother, or, in the case of breech presentation, any part of the infant's trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living infant, and then performing the overt act. The bill punishes the act as a Class 4 felony and repeals the prohibition on partial birth abortion. The bill also redefines "live birth," to include either complete or partial expulsion of the product of human conception, and states that "complete or partial expulsion or extraction" occurs when at least either the infant's entire head is outside the body of the mother or, in the case of a breech delivery, when any part of the infant's trunk past the navel is outside the body of the mother.

Patrons: Marshall, R.G., Athey, Black, Cole, Hugo, Janis, Lingamfelter, Reese and Wright; Senator: Cuccinelli

01/08/03 House: Presented & ordered printed, prefiled 12/20/02 031685824
 01/08/03 House: Referred to Committee for Courts of Justice
 01/08/03 House: Fiscal impact statement from VCSC (HB1541)
 01/15/03 House: Fiscal impact statement from DPB (HB1541)
 01/16/03 House: Assigned to C. J. sub-committee: 1

HB 1547 Minors' abortions; penalty.

Summary as introduced:

Minors' abortions; penalty. Provides, notwithstanding the provisions of § 16.1-241, that, in the event an unemancipated minor who does not have a life-threatening medical condition receives an abortion for which no parent, legal guardian or other person standing in loco parentis has given consent and complications resulting from the abortion require additional medical treatment for which a parent, legal guardian or other person standing in loco parentis is obligated to pay, if the practitioner who performed the abortion without such parental consent fails to treat the complications or to fund treatment provided by another practitioner, he will be guilty of a Class 6 felony.

Patrons: Marshall, R.G., Hugo, Janis and Lingamfelter

01/08/03 House: Presented & ordered printed, prefiled 12/20/02 038784824
 01/08/03 House: Referred to Committee for Courts of Justice
 01/08/03 House: Fiscal impact statement from VCSC (HB1547)
 01/15/03 House: Fiscal impact statement from DPB (HB1547)
 01/16/03 House: Assigned to C. J. sub-committee: 1

000012

HB 1548 Crimes; partial-birth infanticide abortion; penalty.

Summary as introduced:

Crimes; partial-birth infanticide abortion; penalty. Makes the performing of a partial-birth infanticide abortion a Class 4 felony. Defines "partial-birth infanticide" as deliberately and intentionally vaginally delivering a living infant until, in the case of a head-first presentation, the infant's entire head is outside the body of the mother, or, in the case of breech presentation, any part of the infant's trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living infant, and then performing the overt act. The bill also redefines "live birth," to include either complete or partial expulsion of the product of human conception, and states that "complete or partial expulsion or extraction" occurs when at least either the infant's entire head is outside the body of the mother or, in the case of a breech delivery, when any part of the infant's trunk past the navel is outside the body of the mother.

Patrons: Marshall, R.G., Black, Callahan, Cole, Cosgrove, Cox, Howell, Hugo, Janis, Landes, Lingamfelter, Louderback, McQuigg, O'Bannon, Reese, Rollison and Wright; Senators: Cuccinelli, Mims and Ruff

01/08/03 House: Presented & ordered printed, prefiled 12/20/02 038860824

01/08/03 House: Referred to Committee for Courts of Justice

01/08/03 House: Fiscal impact statement from VCSC (HB1548)

HB 1549 Where an abortion is lawful during first trimester of pregnancy.

Summary as introduced:

Where an abortion is lawful during first trimester of pregnancy. Requires that a first trimester abortion not performed in a hospital be performed in a facility no more than 15 miles from a hospital emergency room. Second and third trimester abortions must be performed in a hospital.

Patrons: Marshall, R.G., Black and Lingamfelter

01/08/03 House: Presented & ordered printed, prefiled 12/20/02 031672824

01/08/03 House: Referred to Committee for Courts of Justice

01/08/03 House: Fiscal impact statement from VCSC (HB1549)

01/16/03 House: Assigned to C. J. sub-committee: 1

HB 1580 Abortions performed after the second trimester.

Summary as introduced:

Abortions performed after the second trimester. In the Commonwealth, it is lawful to perform an abortion after the second trimester, provided the operation is performed in a licensed hospital, and the physician and two consulting physicians have determined that the continuation of the pregnancy is likely to result in the death of the woman or substantially and irremediably impair the mental or physical health of the woman. This legislation removes the "mental health" of the woman from consideration as a condition that would allow for an abortion after the second trimester.

Patrons: Cole and Athey

01/08/03 House: Presented & ordered printed, prefiled 12/20/02 032284671

01/08/03 House: Referred to Committee for Courts of Justice

000013

01/08/03 House: Fiscal impact statement from VCSC (HB1580)

01/16/03 House: Assigned to C. J. sub-committee: 1

HB 1675 Information; health professionals;posting home address on Internet.

Summary as introduced:

Information concerning health professionals; posting of home addresses on the Internet. Mandates that, in order to protect the privacy and security of health professionals, every health regulatory board posting addresses of record for regulated persons to the on-line licensure lookup or the physician profile on the Internet shall provide every regulated person with the option of having his home, business or other address posted as his address of record or having his address of record omitted from such posting. Health regulatory boards may continue to require regulated persons to submit their current home and business addresses; however, in any case in which a regulated person states in writing that his home address is not to be disclosed on the Internet, another address must be posted as his address of record as designated by the regulated person or his address of record shall be omitted from the Internet posting.

Patron: Petersen

01/08/03 House: Presented & ordered printed, prefiled 01/03/03 034228882

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/16/03 House: Tabled in H. W. I. (22-Y 0-N)

HB 1705 Physician liability for uncompensated care to the indigent; immunity.

Summary as introduced:

Physician liability for uncompensated care to the indigent; immunity. Provides that any licensed physician who delivers health care services without charge to individuals who are indigent shall not be liable for any civil damages for any act or omission resulting from the rendering of such services in good faith unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Patron: Purkey

01/08/03 House: Presented & ordered printed, prefiled 01/03/03 036208896

01/08/03 House: Referred to Committee for Courts of Justice

01/14/03 House: Fiscal impact statement from DPB (HB1705)

HB 1706 Board of Medicine's guidelines; ethical practice performance/surgery.

Summary as introduced:

Board of Medicine's guidelines for ethical practice in the performance of surgery and other invasive procedures by interns and residents. Broadens the Board of Medicine's responsibility for developing guidelines for ethical practice by surgeons, surgery interns and residents to include all invasive procedures and physicians practicing in emergency rooms and any intern and resident (since virtually all interns and residents must do one or more rotations through emergency rooms). This provision adds the Medical Society of Virginia and the Virginia Hospital and Health Care Association to Virginia's medical schools as cooperating parties in the development of these guidelines. The enhanced guidelines address: (i) obtaining informed consent from the next of kin or the legally authorized representative, when the patient is incapable of making an informed decision after the consenting party has been informed as to which physicians, residents, or interns will perform the surgery or other

000014

invasive procedure; (ii) the presence of an attending physician who is a surgeon or other appropriate licensed specialist during the surgery or invasive procedure, except in an emergency or other unavoidable-situation; (iii) policies to avoid situations in which one person represents that he will perform a surgery or other invasive procedure and then fails to do so; and (iv) policies addressing informed consent and the ethics of using patients who are dying or have died in emergency rooms for training in performing invasive procedures, such as, but not limited to, inserting needles, femoral vein catheterization during cardiopulmonary resuscitation or after failure of cardiopulmonary resuscitation, drawing body fluids, and endotracheal intubation. Such policies shall take into consideration the nonbinding ban developed by the American Medical Association in 2000 on using newly dead patients as training subjects without the consent of the next of kin or other legal representative.

Patrons: Purkey and Dudley

01/08/03 House: Presented & ordered printed, prefiled 01/03/03 034094896

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/13/03 House: Assigned to H. W. I. sub-committee: 1

01/16/03 House: Fiscal impact statement from DPB (HB1706)

HB 1715 Medical malpractice actions; venue.

Summary as introduced:

Medical malpractice actions; venue. Requires that venue for medical malpractice actions shall lie in the city or county in which the majority of the allegedly defective medical care was provided.

Patron: Hogan

01/08/03 House: Presented & ordered printed, prefiled 01/03/03 031728770

01/08/03 House: Referred to Committee for Courts of Justice

HB 1741 Abortion; conscience clause.

Summary as introduced:

Abortion; conscience clause. Includes any physician, pharmacist, or other medical or health care professional who is asked to dispense any birth-control pill or other medication for the purpose of performing an abortion within the provisions of the conscience clause, provided, that such physician, pharmacist, or other medical or health care professional shall refer the patient in a timely manner for services. The conscience clause states that the objection, in writing, of any facility or practitioner or other person to participating in abortion procedures on personal, ethical, moral or religious grounds will not be the basis for claims for damages or disciplinary or recriminatory actions or denial of employment.

Patrons: Byron and Rapp

01/08/03 House: Presented & ordered printed, prefiled 01/06/03 034274656

01/08/03 House: Referred to Committee for Courts of Justice

HB 1777 Medical Malpractice Joint Underwriting Association.

Summary as introduced:

Medical Malpractice Joint Underwriting Association. Specifies that the limits of liability for policies written in the Medical Malpractice Joint Underwriting Association may not exceed \$2 million for each

000015

claimant under any one policy and \$6 million for all claimants under one policy in any one year. Currently, the limits of liability for such policies may not exceed \$1 million for each claimant under any one policy and \$3 million for all claimants under one policy in any one year. This measure will conform this provision with the cap on recovery in medical malpractice actions. The measure has an emergency clause.

Patron: Woodrum

01/21/03 House: Read third time and passed House (98-Y 0-N)
 01/21/03 House: VOTE: PASSAGE EMERGENCY (98-Y 0-N)
 01/21/03 House: Communicated to Senate
 01/22/03 Senate: Constitutional reading dispensed
 01/22/03 Senate: Referred to Committee on Commerce and Labor

HB 1792 Defaults on certain educational loans; health care professional lic.

Summary as introduced:

Defaults on certain educational loans; health care professional and occupational license suspension. Authorizes an obligee to petition for the suspension of any state-issued license to engage in a health care profession or occupation when an obligor is delinquent or in default in the payment of a federal or state guaranteed educational loan or work-conditional scholarship. Thirty days' notice must be given prior to filing the petition. The circuit court in the jurisdiction in which the obligor resides may order reinstatement of the license upon compliance with payment terms by the obligor.

Similar to the current statutes governing suspension for delinquency in child support payments, this measure addresses the licenses and certificates of health care professionals, issued by health regulatory boards within the Department of Health Professions in Subtitle III of Title 54.1, such as those for dentistry, medicine, nursing, veterinary medicine, funeral services, and pharmacy.

Patron: Tata

01/23/03 House: Engrossment reconsidered by House
 01/23/03 House: Read second time
 01/23/03 House: Amendment by Del. Tata agreed to
 01/23/03 House: Engrossed by House as amended
 01/23/03 House: Printed as reengrossed 036737948-E2

HB 1820 Info. concerning health professionals; posting of home addresses.

Summary as introduced:

Information concerning health professionals; posting of home addresses on the Internet. Mandates that, in order to protect the privacy and security of health professionals, every health regulatory board posting addresses of record for regulated persons to the on-line licensure lookup or the physician profile on the Internet shall provide every regulated person with the option of having his home, business or other address posted as his address of record or having his address of record omitted from such posting. Health regulatory boards may continue to require regulated persons to submit their current home and business addresses; however, in any case in which a regulated person states in writing that his home address is not to be disclosed on the Internet, another address must be posted as his address of record as designated by the regulated person or his address of record shall be omitted from the Internet posting.

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Patrons: Morgan and Petersen

01/17/03 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
 01/17/03 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
 01/17/03 House: Communicated to Senate
 01/20/03 Senate: Constitutional reading dispensed
 01/20/03 Senate: Referred to Committee on Education and Health

HB 1823 Prescriptions for therapeutic equivalent drugs; Va Vol. Formulary.

Summary as introduced:

Prescriptions for therapeutically equivalent drugs; Virginia Voluntary Formulary repealed.
 Repeals the Virginia Voluntary Formulary---the Commonwealth's generic drug statutes---and replaces these archaic requirements with Drug Control Act provisions relating to the prescribing and dispensing of "therapeutically equivalent" drug products. This bill updates the law relating to prescribing and dispensing generic drugs, but provides few changes in prescribing and dispensing requirements.

Patrons: Morgan and Jones, S.C.

01/08/03 House: Referred to Committee on Health, Welfare and Institutions
 01/13/03 House: Assigned to H. W. I. sub-committee: 1
 01/13/03 House: Fiscal impact statement from DPB (HB1823)
 01/23/03 House: Reported from H. W. I. w/substitute (20-Y 0-N)
 01/23/03 House: Committee substitute printed 033876856-H1

HB 1824 Health professions; pharmacy technicians.

Summary as introduced:

Health professions; pharmacy technicians. Extends from 6 months to 1 year after the promulgation of regulations the date pharmacy technicians must register with the Board of Pharmacy. Regulations are scheduled to be adopted by July 1, 2003.

Patron: Morgan

01/17/03 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
 01/17/03 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
 01/17/03 House: Communicated to Senate
 01/20/03 Senate: Constitutional reading dispensed
 01/20/03 Senate: Referred to Committee on Education and Health

HB 1825 Health professions; pharmacy and the schedule of drugs.

Summary as introduced:

Health professions; pharmacy and the schedule of drugs. Adds dichloralphenazone to Schedule IV and reschedules buprenorphine from Schedule V to Schedule III to conform to recent changes in federal regulation, and to correct and conform the categories of drugs in Schedule III to those in federal regulation by moving nalorphine from the "depressants," which is an incorrect category for this drug, and placing it into its own category.

Patron: Morgan

000017

01/17/03 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
 01/17/03 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
 01/17/03 House: Communicated to Senate
 01/20/03 Senate: Constitutional reading dispensed
 01/20/03 Senate: Referred to Committee on Education and Health

HB 1833 Information to be provided prior to abortion; adoption.

Summary as introduced:

Information to be provided prior to abortion; adoption. Clarifies that the information to be provided prior to an abortion relative to adoption services portrays adoption as a positive alternative and provides information relative to adoption counseling services, benefits, financial assistance, medical care and contact persons or groups.

Patrons: Reese, Albo, Amundson, Athey, Bell, Black, Bolvin, Byron, Callahan, Cole, Cosgrove, Drake, Gear, Hamilton, Hogan, Hugo, Ingram, Janis, Johnson, Kilgore, Landes, Lingamfelter, Marrs, Marshall, R.G., Moran, Nixon, Nutter, O'Bannon, Petersen, Purkey, Reid, Rollison, Rust, Saxman, Sears, Tata, Ware and Welch; *Senators:* Cuccinelli and O'Brien

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 035927903
 01/08/03 House: Referred to Committee for Courts of Justice

HB 1835 Eliminating immunity of physicians; tests not authorized by physician.

Summary as introduced:

Eliminating immunity of physicians; tests not authorized by physicians. Eliminates the immunity of a physician from civil liability for his failure to review, or respond to, results of tests he neither requested nor authorized.

Patron: Reese

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 034186903
 01/08/03 House: Referred to Committee for Courts of Justice

HB 1850 Persons providing on-call services in hospital emergency rooms.

Summary as introduced:

Persons providing on-call services in hospital emergency rooms. Provides for immunity from liability for acts or omissions resulting from the rendering of emergency care in hospital emergency rooms by persons agreeing to be on call in a hospital emergency room in the absence of gross negligence or willful misconduct, under the following circumstances: (i) such person is licensed by a health regulatory board and is acting within his scope of practice; (ii) the emergency care is rendered to a person who has not previously been cared for by the person or by another person professionally associated with the person for the illness or injury causing the emergency; and (iii) the medical records of the person receiving treatment are not reasonably available to the person rendering the care. The immunity herein granted shall apply only to the emergency medical care provided.

Patron: Lingamfelter

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033803822

000018

01/08/03 House: Referred to Committee for Courts of Justice
01/14/03 House: Fiscal impact statement from DPB (HB1850)

HB 1864 Medical malpractice; independent contractors.

Summary as introduced:

Medical malpractice; independent contractors. Adds independent contractors to the definition of health care provider for purposes of medical malpractice claims.

Patron: O'Bannon

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 036007870
01/08/03 House: Referred to Committee for Courts of Justice

HB 1870 Notice relating to disposition of patient records; practice is sold.

Summary as introduced:

Notice relating to disposition of patient records when a practice is sold. Removes the option that patient records may be destroyed, at the request of the specific patient, when a practice is sold. Current law requires that persons licensed, registered, or certified by one of the health regulatory boards delay transfer of patient records upon the sale of a professional practice until the provider has first attempted to notify the patient of the pending transfer, by mail, at the patient's last known address, and by publishing prior notice in a newspaper of general circulation within the provider's practice area. Currently, the notice must state that, at the written request of the patient or an authorized representative, within a reasonable time period, the records or copies will be sent to any other like-regulated provider of the patient's choice or destroyed. Destruction of patient records is generally unwise for many reasons, including various recordkeeping standards and quality of patient care issues.

Patron: O'Bannon

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 036005870
01/08/03 House: Referred to Committee on Health, Welfare and Institutions
01/23/03 House: Reported from H. W. I. (20-Y 0-N)

HB 1871 Health professions; multistate nursing compact.

Summary as introduced:

Health professions; multistate nursing compact. Authorizes Virginia's membership in a multistate nursing compact that provides the structure for the reciprocal recognition of other states' licenses to practice as a registered nurse or a licensed practical nurse. The Compact also provides for each state's autonomy in setting licensure standards for the persons licensed in their home state as well as in disciplinary proceedings. The bill would provide for a data collection system and increased interaction between party states to help in health care management as well as to provide an effective screening tool for persons who are changing residence and wish to practice nursing in a state that is a party to the Compact.

Patron: O'Bannon

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033710870
01/08/03 House: Referred to Committee on Health, Welfare and Institutions

000019

01/14/03 House: Fiscal impact statement from DPB (HB1871)

HB 1900 Health professions; practice of dentistry.

Summary as introduced:

Health professions; practice of dentistry. Clarifies that the all-volunteer, nonprofit organizations providing donated services by dentists and dental hygienists who are not licensed in the Commonwealth may have paid employees and do not have to meet the criteria of providing services "throughout the world." The bill contains an emergency provision.

Patrons: Stump; Senator: Puckett

01/17/03 House: Read third time and passed House (98-Y 0-N)

01/17/03 House: VOTE: PASSAGE EMERGENCY (98-Y 0-N)

01/17/03 House: Communicated to Senate

01/20/03 Senate: Constitutional reading dispensed

01/20/03 Senate: Referred to Committee on Education and Health

HB 1906 Medical malpractice; expert witnesses.

Summary as introduced:

Medical malpractice; expert witnesses. Limits the number of medical experts a party may designate, identify, or call to testify as to the standard of care (2 experts per medical discipline) and as to any other issue in controversy (1 expert per medical discipline). The bill does not limit the number of treating health care providers who may be called as witnesses. The bill permits the court to waive any limitations on medical experts, so long as the calling party pays all the costs incurred in their discovery, and to limit the number of other experts a party may designate, identify, or call to testify in the action.

Patron: Melvin

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 036682848.

01/08/03 House: Referred to Committee for Courts of Justice

HB 1933 Physical therapist assistants; supervision.

Summary as introduced:

Physical therapist assistants; supervision. Provides that a physical therapist assistant shall perform his duties solely under the direction and control of a licensed physical therapist rather than both a licensed physical therapist and the patient's physician.

Patron: Nixon

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033119868

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/14/03 House: Fiscal impact statement from DPB (HB1933)

HB 1934 Physical therapists; administration of controlled substances.

Summary as introduced:

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Physical therapists; administration of controlled substances. Authorizes a physical therapist to possess and administer topical controlled substances as prescribed by a licensed prescriber.

Patron: Nixon

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033120868

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/13/03 House: Assigned to H. W. I. sub-committee: 1

HB 1960 Health professions; practice of midwifery.

Summary as introduced:

Health professions; practice of midwifery. Provides for the licensure by the Board of Medicine of those persons who have obtained the Certified Professional Midwife credential to practice midwifery. Licensed midwives must disclose to clients certain background information, training and experience, malpractice or liability insurance coverage, and procedures to file complaints with the Board. Licensed midwives are not required to have any agreement or assessment of the potential client by another health care professional. This bill would leave in place current midwifery practice as governed by the Board of Health.

Patrons: Hamilton, Black and Dudley

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033009760

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/14/03 House: Fiscal impact statement from DPB (HB1960)

HB 1961 Health; practice of midwifery.

Summary as introduced:

Health; practice of midwifery. Repeals the requirements for registration and a permit to practice midwifery.

Patrons: Hamilton, Black and Dudley

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033010760

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

HB 1982 Testimony by treating physicians; consent of patient required.

Summary as introduced:

Testimony by treating physicians; consent of patient required. Prevents a plaintiff's treating physician from offering any testimony as to the standard of care, breach of standard, or causation without the patient's consent. The bill also prevents testimony by any other members of that treating physician's practice without the patient's consent, regardless of whether the individual treated plaintiff. Under current law, there are no explicit obstacles to such testimony but because of the patient-physician privilege, circuit courts are split on whether testimony without plaintiff's consent (potentially adverse to plaintiff) is admissible.

Patron: Athey

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01/08/03 House: Presented & ordered printed, prefiled 01/07/03 036708616
 01/08/03 House: Referred to Committee for Courts of Justice
 01/16/03 House: Assigned to C. J. sub-committee: 2

HB 2048 Virginia Birth-Related Neurological Injury Program.

Summary as introduced:

Virginia Birth-Related Neurological Injury Program. Authorizes the Workers' Compensation Commission to award up to \$100,000 to the parents or legal guardian of an injured infant covered under the Virginia Birth-Related Neurological Injury Program who dies within 180 days of birth. The Program is made subject to the Freedom of Information Act and is required to implement procedures consistent with the Public Procurement Act and the rulemaking provisions of the Administrative Process Act. The Virginia Birth-Related Neurological Injury Fund must be audited annually by a certified public accountant. The Office of the Attorney General is required to provide legal services for the Program. Other changes (i) clarify that a mother is not subject to the Program's exclusive remedy provision with respect to physical injuries she suffers during delivery; (ii) require hospitals to release fetal monitoring strips to the Program or injured infant's legal representative upon request; (iii) require the investigation and referral to the Board of Health Professions or Department of Health, as appropriate, of health care providers and participating hospitals if the conduct gives rise to disciplinary action; (iv) require physicians and nurse midwives to inform patients whether they are participants in the Program; (v) require all hospitals to provide a brochure on the Program with post-partum materials if the infant was hospitalized in a neonatal intensive care unit; (vi) prohibit the Program from participating as a party in the proceeding before the Workers' Compensation Commission; and (vii) require the report of the reviewing panel of physicians to be mailed to the Program and all parties within 60 days after the filing of a petition. The panel's report is required to confirm whether each element of the definition of a birth-related injury is satisfied, and the panel is to complete such documentation as the Program's board of directors requires. Physician review panel duties will rotate among Eastern Virginia Medical School, University of Virginia School of Medicine, and the Medical College of Virginia on a case-by-case basis. The Commission may require the claimant to procure health insurance for the injured infant, to be paid for from the Fund. The Commission may award unsuccessful petitioners reasonable attorneys' fees and other expenses incurred in filing a claim in good faith. The Program's board is required to consult semiannually with the chief investment officer of the Virginia Retirement System regarding fund management strategies and asset allocations, and the Program's investment advisor shall provide annual statements explaining the expected returns on its equities and fixed income portfolios. The Program's board is directed to (a) develop and implement a policy on handicapped accessible housing and (b) study and develop options for revising fees for participating providers. The board of director's power to reduce the annual participating physician assessment and the annual participating hospital assessment is eliminated. The board's non-participating physician representative is replaced with a citizen member with professional experience working with the disabled community. Two of the other citizen members of the board are required to have a minimum of 5 years of professional investment experience.

Patrons: Woodrum and Armstrong

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 030013996
 01/08/03 House: Referred to Committee on Commerce and Labor

HB 2060 Board of Veterinary Medicine; animal care facility disclosure forms.

Summary as introduced:

Board of Veterinary Medicine; animal medical care facility disclosure forms. Requires certain

000022

animal medical care facilities, in each instance that an animal has been left for overnight medical observation, to provide a disclosure form specifying the regular staffing hours of the facility and the hours and days when continuous medical care is not available at the facility. The disclosure form must be kept on file at the facility and updated if there are any subsequent overnight observations of the same animal.

Patrons: Callahan, Almand, Baskerville, Plum, Van Landingham and Watts; *Senators:* Byrne and Ticer

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 035866660
 01/08/03 House: Referred to Committee on Health, Welfare and Institutions
 01/13/03 House: Assigned to H. W. I. sub-committee: 3
 01/14/03 House: Fiscal impact statement from DPB (HB2060)
 01/23/03 House: Passed by indefinitely in H. W. I. (20-Y 0-N)

HB 2125 Board of Funeral Directors and Embalmers; inspection of crematories.

Summary as introduced:

Board of Funeral Directors and Embalmers; inspection of crematories. Authorizes the Board of Funeral Directors and Embalmers to inspect both registered crematories and crematories licensed as a funeral service establishment. Currently, a crematory offering services directly to the public must be licensed as a funeral service establishment and is subject to inspections and disciplinary sanction by the Board. This bill clarifies that registered crematories (those providing services only to a funeral home) must be registered and are subject to inspection and disciplinary sanctions for operating in a manner that may endanger the public health, safety or welfare.

Patron: Reid

01/17/03 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
 01/17/03 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
 01/17/03 House: Communicated to Senate
 01/20/03 Senate: Constitutional reading dispensed
 01/20/03 Senate: Referred to Committee on General Laws

HB 2182 Health practitioner contact information for a public health emergency.

Summary as introduced:

Health practitioner contact information for a public health emergency. Grants the Department of Health Professions (Department) the authority to require certain health practitioners to report any email address, telephone number and facsimile number that may be used to contact them in the event of a public health emergency. Such email addresses, telephone numbers and facsimile numbers shall not be published, released or made available for any other purpose. The Director of the Department shall adopt emergency regulations to identify who must report and the procedures for reporting.

Patrons: O'Bannon, Melvin, Jones, S.C., Miles, Putney and Sherwood; *Senators:* Howell and Stolle

01/17/03 House: Read third time and passed House (98-Y 0-N)
 01/17/03 House: VOTE: PASSAGE EMERGENCY (98-Y 0-N)
 01/17/03 House: Communicated to Senate
 01/20/03 Senate: Constitutional reading dispensed
 01/20/03 Senate: Referred to Committee on Education and Health

000023

HB 2183 Administering or dispensing of drugs; disaster or emergency.*Summary as introduced:*

Administering or dispensing of drugs; disaster or emergency. Permits the Commissioner to authorize unlicensed persons to administer or dispense drugs or devices in accordance with protocols established by the Commissioner when (i) the Governor has declared a disaster or a state of emergency caused by an act of terrorism or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. These persons shall administer or dispense all drugs or devices under the direction, control and supervision of the Commissioner. The bill requires the Commissioner to develop protocols, in consultation with the Department of Health Professions, that address the required training of persons and procedures for them to use in administering or dispensing drugs or devices. Also, the bill creates an exception to the Drug Control Act for this purpose. This bill is a recommendation of the Secure Virginia Panel.

Patrons: O'Bannon, Melvin, Jones, S.C., Miles, Putney and Sherwood; *Senators:* Howell and Stolle

01/08/03 House: Pres. & ord. printed w/emg. clause pref.01/08/03 033144211

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/20/03 House: Fiscal impact statement from DPB (HB2183)

01/23/03 House: Reported from H. W. I. w/substitute (20-Y 0-N)

01/23/03 House: Committee substitute printed 033158870-H1

HB 2204 Pharmacists' compounding of drug products.*Summary as introduced:*

Pharmacists' compounding of drug products. Revises the requirements for compounding of drugs by pharmacists. This bill provides, among other matters, clear parameters for permitted pharmacies in Virginia to engage in the compounding of drug products. The bill includes (i) definitions of "bulk drug substance," and "compounding," and modifications to other Drug Control Act definitions; (ii) clarification that pharmacists may compound pursuant to valid prescriptions or in anticipation of valid prescriptions according to historical prescribing patterns; (iii) labeling requirements for compounded drugs, both those drugs dispensed pursuant to single prescriptions and those drugs compounded in anticipation of receiving valid prescriptions; (iv) restrictions on distribution that clarify that pharmacists cannot distribute to other pharmacies or commercial entities but may deliver compounded products to alternative delivery locations and provide compounded products to practitioners to administer to their patients in the course of their professional practice; (v) requirements for performance and supervision of the compounding process; (vi) a requirement for a policy and procedure manual when the levels of compounding are associated with higher risk for contamination or radiopharmaceuticals or dosage forms that are dose-critical or specialized preparations, such as slow-release products or transdermal patches; (vii) rules for the use of bulk drug substances in compounding; (viii) restrictions on the compounding of drugs that have been removed from the market by the FDA or found to be unsafe and on the compounding of large amounts of any drug product that are essentially copies of commercially available; and (ix) strict recordkeeping criteria. Physicians who are permitted to dispense or who engage in compounding must also comply with the requirements. Permitted pharmacies will not be required to obtain licenses as wholesale distributors if the wholesale distributions do not exceed 5 percent of the gross annual sales of the pharmacy or the wholesale distributions of Schedules II through V controlled substances do not exceed 5 percent of the total dosage units of such substances dispensed annually by the pharmacy.

000024

Patron: Jones, S.C.

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 034269212
 01/08/03 House: Referred to Committee on Health, Welfare and Institutions
 01/13/03 House: Assigned to H. W. I. sub-committee: 1
 01/16/03 House: Fiscal impact statement from DPB (HB2204)

HB 2205 Health professions; physician assistant prescriptive authority.

Summary as introduced:

Health professions; physician assistant prescriptive authority. Adds Schedule III controlled substances to the list of those substances that a licensed physician assistant may prescribe pursuant to regulations by the Board. Physician assistants currently may prescribe drugs from Schedules V and VI and adds Schedule IV effective January 1, 2003.

Patron: Jones, S.C.

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 032425796
 01/08/03 House: Referred to Committee on Health, Welfare and Institutions
 01/13/03 House: Assigned to H. W. I. sub-committee: 1
 01/16/03 House: Fiscal impact statement from DPB (HB2205)

HB 2206 Health professions; pharmacy.

Summary as introduced:

Health professions; pharmacy. Provides that when a drug is dispensed in a hospital by a chart order, the pharmacist dispensing the drug does not have to indicate on the label the name of the prescriber by whom the prescription was written.

Patron: Jones, S.C.

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 032426796
 01/08/03 House: Referred to Committee on Health, Welfare and Institutions
 01/13/03 House: Assigned to H. W. I. sub-committee: 1
 01/16/03 House: Fiscal impact statement from DPB (HB2206)

HB 2221 Health professions; acupuncture.

Summary as introduced:

Health professions; acupuncture. Changes the composition of the Advisory Board on Acupuncture to require that 1 member be a doctor of chiropractic who is qualified to practice acupuncture in the Commonwealth. The bill also changes the appointment process beginning July 1, 2006, to require staggered terms so that the board does not have a complete change in membership at the completion of terms.

Patrons: Shuler, Welch, Landes, McDonnell, Morgan, Nixon and Sears

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 034251870
 01/08/03 House: Referred to Committee on Health, Welfare and Institutions
 01/16/03 House: Fiscal impact statement from DPB (HB2221)

000025

01/22/03 House: Assigned to H. W. I. sub-committee: 1

HB 2302 Administration of controlled substances by nurses.

Summary as introduced:

Administration of controlled substances by nurses. Provides that prescribers may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in accordance with policies and guidelines established by the Department of Health. The bill also provides that the State Health Commissioner may authorize registered nurses, acting as agents of the Department, at the nurse's discretion, to possess and administer PPD to those persons in whom tuberculin skin testing is indicated.

Patron: Devolites

01/21/03 House: Committee substitute printed 033151720-H1
 01/22/03 House: Read first time
 01/23/03 House: Read second time
 01/23/03 House: Committee substitute agreed to 033151720-H1
 01/23/03 House: Engrossed by House - committee substitute 033151720-H1

HB 2307 Birth-Related Neurological Injury Compensation Program.

Summary as introduced:

Birth-Related Neurological Injury Compensation Program. Requires participating hospitals and physicians to notify obstetrical patients of the rights and limitations provided by the Birth-Related Neurological Injury Compensation Program, and to provide for written consent by patients who agree that any claim with respect to a birth-related neurological injury will be pursued under the Program to the exclusion of any medical malpractice claim. If an obstetrical patient does not consent to have the participation in the program be the claimant's exclusive remedy, the infant's legal representative may either pursue a claim under the Program or bring a civil action against a participating hospital or physician. Other amendments to the Program require that each hospital that provides obstetrical services (i) retain records relating to labor or delivery, including the fetal heart monitor tape, for a minimum of 10 years and (ii) provide possible claimants with all medical records related to birth. A hospital that fails to do so shall be subject to a civil penalty of not more than \$5,000. If the hospital fails to provide the fetal heart monitor tape, fetal distress shall be rebuttably presumed. The State Corporation Commission's authority to suspend the annual assessment levied upon participating hospitals and physicians is eliminated.

Patron: Devolites

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 030016577
 01/08/03 House: Referred to Committee on Commerce and Labor

HB 2331 Weight loss centers and clinics.

Summary as introduced:

Weight loss centers and clinics. Provides that a weight loss center or weight loss clinic may not use "dietician" or "nutritionist" in its name or advertisements unless it employs at least one full-time licensed, certified, or registered dietician or nutritionist.

000026

The considerable interest in the health risks of overweight and obesity has raised concerns about the claims of certain weight loss centers and clinics, the effectiveness of weight loss and weight control products and services, and the potential public health risks when persons lacking education, training, and competence in the nutritional sciences, dietetics or human nutrition, food and nutrition, or public health nutrition are responsible for the nutritional and dietary components of weight loss and weight control plans.

Patrons: Bland, Crittenden and Miles; Senator: Lucas

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 031946638

01/08/03 House: Referred to Committee for Courts of Justice

HB 2371 Systematic reporting of abortion.

Summary as introduced:

Systematic reporting of abortion. Requires physicians performing abortions or treating the complications of induced abortions to report detailed information on forms prepared and distributed by the Board of Health. In addition, the Board must issue a public report annually providing the same detailed information for the most recent year and all previous calendar years, adjusted to reflect any additional information from late or corrected reports. Physicians failing to report in a timely manner will be subject to a late fee of \$500 for each additional 30 days that the forms are overdue and the Board may pursue the penalties or other relief provided in § 32.1-27 in any case in which a physician has failed to file the required forms within 1 year or has filed incomplete forms.

Patrons: Marshall, R.G., Athey and Black

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 033845824

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/13/03 House: Assigned to H. W. I. sub-committee: 1

HB 2417 Health professions; guidance documents.

Summary as introduced:

Health professions; guidance documents. Requires the Director of the Department of Health Professions to publish, or cause to be published, law, regulation and guidance documents governing each healthcare profession for reference by practitioners. Documents will include topical areas such as unlicensed practice, requirements for licensure, standards of practice, delegation, continued competency requirements, facility requirements, and other areas determined by the Director.

Patrons: Welch and McDonnell

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 033005836

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/16/03 House: Stricken at request of Patron in H. W. I. (22-Y 0-N)

HB 2463 Patient health records privacy; subpoenas duces tecum; emergency.

Summary as introduced:

Patient health records privacy; subpoenas duces tecum; emergency. Revises the subpoena provisions in the patient records law to provide consistency between the existing Virginia provisions and

000027

federal regulations promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996 relating to standards for security and privacy of protected health information. This bill requires that the return date for a subpoena duces tecum will be 15 days unless a court or administrative agency directs an earlier day and that a motion to quash must be filed within 15 days of the notice to the patient or the provider. The language of the notice that must be given to providers acknowledges that the patient or the patient's counsel has received a copy of the subpoena; that either the patient or the provider has the right to file a motion to quash; and as HIPAA requires, that the provider must not respond to the subpoena until he has received written certification from the party on whose behalf the subpoena was issued that the time for filing a motion to quash has elapsed and that no motion was filed or any filed motion has been resolved and the disclosures are consistent with this resolution. As provided in present law, upon receiving a notice that the patient has filed a motion to quash or if the provider files such motion, the provider must send the records to the court or administrative agency in a sealed envelope with a cover letter stating that confidential health records are enclosed and are to be held pending the court's ruling on the motion to quash. The sealed envelope and the cover letter must be placed in an outer envelope or package for transmittal. Explicit instructions are provided for the resolutions of motions to quash in terms of the disposition of the records and the certification that must be given to the provider, as follows: full disclosure and no records submitted under seal to the court or administrative agency to be returned or, if the provider has not responded to the subpoena, that he must respond with the records within 15 days of the subpoena or 5 days of the certification, whichever is later; no disclosure and return of all records submitted under seal to the court or, if the provider has not submitted records to the court or agency, that the provider must not respond to the subpoena; or limited disclosure and return of a portion of the records submitted under seal to the court or administrative agency or if the provider has not responded to the subpoena, that he must respond with the portion of the records that have been authorized to be disclosed within 15 days of the subpoena date or the 5 days of the certification. "Certification" is defined as "a written representation that is delivered by hand, by first-class mail, by overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting that all facsimile pages were successfully transmitted." This bill contains an emergency clause providing that the act will be in force from its passage, i.e., on such date as may be consistent with the constitutional requirements for passage of legislation that does not become effective in due course.

Patron: O'Bannon

01/08/03 House: Pres. & ord. printed w/emg. clause pref.01/08/03 033855870

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/13/03 House: Assigned to H. W. I. sub-committee: 1

01/23/03 House: Reported from H. W. I. w/amendment (20-Y 0-N)

HB 2477 Registered nurses; authority to conduct physical exams of children.

Summary as introduced:

Registered nurses; delegation to conduct physical examinations of children. Provides an exemption to the medical practice act to authorize physicians of medicine and osteopathy to delegate to registered nurses the authority to conduct physical examinations of children, when these children's health services are provided in accordance with a written protocol between the physician and the registered nurse, and the registered nurse has successfully completed training in a program complying with the Board of Nursing's guidelines. The Board of Nursing, in coordination with the Board of Medicine, is also authorized to develop and revise guidelines for training registered nurses to conduct children's physical examinations under the supervision of a physician of medicine or osteopathy. This provision is a recommendation of the Joint Subcommittee Studying Lead Poisoning Prevention as a means to increase opportunities for identification of children with elevated blood-lead levels, to reduce the administrative

000028

burden on physicians, and to provide authority for reimbursement for nurses to perform this service through Medicaid under appropriate circumstances, and, where applicable, insurance programs.

Patron: Crittenden

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 033819452

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/16/03 House: Fiscal impact statement from DPB (HB2477)

HB 2494 Health professions; treatment of breast cancer.

Summary as introduced:

Health professions; treatment of breast cancer. Requires any physician providing treatment for a diagnosis of breast cancer to provide to the patient, either orally or in writing, a complete description of all alternative treatments, including lumpectomy, and the relative benefits of each treatment prior to determining the course of treatment for that patient.

Patron: Bolvin

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 036278646

01/08/03 House: Referred to Committee on Health, Welfare and Institutions

01/21/03 House: Stricken at request of Patron in H. W. I. (22-Y 0-N)

HB 2513 Crimes; partial birth abortion; penalty.

Summary as introduced:

Crimes; partial birth abortion; penalty. Makes it a Class 4 felony to deliberately and intentionally perform a partial birth abortion or a dilation and extraction abortion, unless such a procedure is necessary in the physician's appropriate medical judgment for the preservation of the life or health of the pregnant woman.

Patrons: McDonnell, Athey, Rapp and Suit

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 030773836

01/08/03 House: Referred to Committee for Courts of Justice

01/09/03 House: Fiscal impact statement from VCSC (HB2513)

01/16/03 House: Assigned to C. J. sub-committee: 1

HB 2520 Medical malpractice; limit on attorney fees.

Summary as introduced:

Medical malpractice; limit on attorney fees. Provides that beginning with medical malpractice actions accruing on or after July 1, 2003, attorney fees shall be limited in accordance with the following fee schedule: 33 and one-third percent of the first \$150,000 of the sum recovered; 25 percent of the next \$150,000 recovered; 20 percent of the next \$500,000 recovered; 15 percent of the next \$150,000 recovered; and 10 percent of any amount over \$950,000 of the sum recovered. The bill applies the percentage limitations to the sum recovered by the plaintiff through trial, settlement, or arbitration, less the expenses related to the action but including any liens for medical care or treatment. On application of the attorney, and with notice to the plaintiff, the court in which the action is pending may adjust the compensation that would be awarded by the fee schedule on the basis of specific factors, including the

000029

extent to which the sum recovered, less any legal fees, compensates the plaintiff for his damages.

Patron: Morgan

01/08/03 House: Presented & ordered printed, prefiled 01/08/03 032556856
 01/08/03 House: Referred to Committee for Courts of Justice

HB 2605 Dialysis Patient Care Technicians.

Summary as introduced:

Dialysis Patient Care Technicians. Establishes the requirement for certification from an organization approved by the Board of Health Professions for a person to use the titles "dialysis patient care technician" or "dialysis care technician." Unregulated persons performing services relating to the technical elements of dialysis, such as equipment maintenance and preparation of dialysers for reuse by the same patient, will not be affected. The Board of Health Professions is charged with approving programs examining candidates for appropriate competency or technical proficiency to perform as dialysis patient care technicians or dialysis care technicians for state certification. Individuals who are currently employed as dialysis care technicians and are administering medications in the ordinary course of their duties in Medicare-certified renal dialysis facilities and have satisfactorily completed a training program in accordance with the Core Curriculum for Dialysis Technician, also known as the Amgen Core Curriculum, or a comparable education and training curriculum, are grandfathered and will be in compliance with the new certification requirement. Other national training and testing programs appear to be available for the Board of Health Professions to approve, including several programs that are recognized by the National Association of Nephrology Technicians/Technologists.

Patron: Bryant

01/21/03 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)
 01/21/03 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
 01/21/03 House: Communicated to Senate
 01/22/03 Senate: Constitutional reading dispensed
 01/22/03 Senate: Referred to Committee on Education and Health

HB 2610 Foreign medical school graduates' requirements for admission to examin

Summary as introduced:

Foreign medical school graduates' requirements for admission to examination and licensure by the Board of Medicine. Eliminates the requirement that certain foreign medical school graduates are required to complete 3 years of postgraduate training in a hospital before being admitted to examination for licensure. This provision requires the Board of Medicine to admit the foreign medical school graduates to examination after 1 year of postgraduate training in a hospital as an intern or resident in this country. However, if the foreign medical school graduate fails the examination after the 1-year internship or residency, 2 more years of postgraduate training will be required before he will be readmitted to examination. Currently, the Board requires foreign medical school graduates' from programs that are not acceptable to it to complete 3 years of postgraduate training. Reportedly, the Virginia Board of Medicine's 3-year requirement is among the most stringent in the country.

Patron: Bryant

01/21/03 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)

000030

01/21/03 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
 01/21/03 House: Communicated to Senate
 01/22/03 Senate: Constitutional reading dispensed
 01/22/03 Senate: Referred to Committee on Education and Health

HB 2651 Health professions; licensing.

Summary as introduced:

Health professions; licensing. Provides an exemption from the requirement that an applicant for a license, certificate or other registration to practice a health profession provide a social security number or control number for those foreign nationals who are otherwise qualified but who cannot provide a social security number or control number at the time of application. The temporary license or authorization to practice shall be effective for no longer than 90 days. The bill has an emergency effective date.

Patron: Cox

01/13/03 House: Presented & ordered printed w/emg. clause 033713680
 01/13/03 House: Referred to Committee on Health, Welfare and Institutions
 01/20/03 House: Fiscal impact statement from DPB (HB2651)
 01/23/03 House: Reported from H. W. I. (20-Y 0-N)

HB 2692 Injury to child in utero; penalty.

Summary as introduced:

Injury to child in utero; penalty. Punishes as a Class 2 felony willful, deliberate and intentional conduct that is unlawful and causes death or permanent serious bodily injury to a child in utero. If the conduct is willful and deliberate but not intentional it is punished as a Class 4 felony.

Patron: Bell

01/15/03 House: Presented & ordered printed 030625627
 01/15/03 House: Referred to Committee for Courts of Justice
 01/15/03 House: Fiscal impact statement from VCSC (HB2692)

HB 2815 Registered nurses operating automated external defibr

Summary as introduced:

Registered nurses operating automated external defibrillators; immunity from liability. Amends the Good Samaritan law to provide that any registered nurse who operates an automated external defibrillator in an emergency will not be liable for civil damages for any personal injury that results from any act or omission in the use of an automated external defibrillator in such emergency when an ordinary, reasonably prudent person other than a registered nurse would have so acted under the same or similar circumstances, unless such act or omission was the result of such registered nurse's gross negligence or willful misconduct.

Patron: Bolvin

01/17/03 House: Presented & ordered printed 033868646

000031

01/17/03 House: Referred to Committee for Courts of Justice

HB 2818 Supply and demand for nurses in Virginia.

Summary as introduced:

Supply and demand for nurses in Virginia. Adds to the duties of the State Council of Higher Education the responsibility for developing, in cooperation with institutions of higher education, a strategic statewide plan to ensure adequate nursing manpower in Virginia. The Council must also establish, implement, and maintain a uniform, comprehensive data information system designed to gather all information necessary to determine the current supply and project the demand for nurses in the Commonwealth. Further, the Council is directed to recommend to the Governor and the General Assembly such changes in public policy as may be necessary to meet the state's current and future need for essential nursing services.

Patron: Christian

01/17/03 House: Presented & ordered printed 038067668

01/17/03 House: Referred to Committee on Education

HB 2833 Athletic trainer certification; protective taping.

Summary as introduced:

Athletic trainer certification; protective taping. Exempts from the athletic trainer certification requirements the application of protective taping to an uninjured body part by any coach, physical education instructor or other person. Currently, these individuals may also conduct or assist with exercise or conditioning programs or classes within the scope of their duties as employees or volunteers without such certification.

Patrons: Reid, Griffith, Hamilton and Kilgore

01/23/03 House: Unanimous consent to introduce

01/23/03 House: Presented & ordered printed

HJ 605 Study; midwifery.

Summary as introduced:

Study; midwifery. Requests the Board of Health Professions to recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation for direct-entry midwives. The report shall be submitted to the 2004 General Assembly.

Patrons: Hamilton, Athey, Black and Dudley

01/08/03 House: Presented & ordered printed, prefiled 01/07/03 033008760

01/08/03 House: Referred to Committee on Rules

HJ 696 Commemorating 100th anniversary of Virginia Nurse Practice Act.

Summary as introduced:

Commending the 100th anniversary of the enactment of the Virginia Nurse Practice Act and the

000032

establishment of the Virginia Board of Nursing.*Patron:* Bryant

01/08/03 House: Prefiled; 01/08/03

01/08/03 House: Presented and laid on Speaker's table 033639652

01/17/03 House: Passed by for the day

SB 757 Registered nurses performing infusion svces; medical assistance svces.*Summary as introduced:*

Registered nurses performing infusion services; medical assistance services. Requires the Board of Medical Assistance Services to provide for reimbursement for infusion care rendered by registered nurses to patients in long-term care facilities, hospitals or home- and community-based care, including, but not limited to, peripheral IV catheters, Advanced Vascular Access Devices, such as Hickman, Mediport, Peripherally Inserted Central Catheters, and midlines, and IV access care and maintenance of peripheral and central catheters, when such registered nurses have met the requirements of the Board of Nursing for experience and training in such care. This bill provides an exception to the medical practice act for such registered nurses and requires the Board of Nursing to develop, in coordination with the Board of Medicine, guidelines for experiential and training requirements for registered nurses to render infusion care.

Patron: Miller, Y.B.

01/08/03 Senate: Presented & ordered printed, prefiled 12/30/02 034122480

01/08/03 Senate: Referred to Committee on Education and Health

01/16/03 Senate: Passed by indefinitely in Ed. & Health (14-Y 0-N)

SB 799 Transfer/copies of patient records;at sale or relocation of practice.*Summary as introduced:*

Transfer or copies of patient records upon the sale or relocation of a practice. Requires practitioners who are relocating a professional practice to notify the patient at his last known address and by newspaper publication of such relocation. Present law requires this notice in the case of a sale of a practice. The notice must also disclose the charges, if any, that will be billed by the practitioner for providing the patient copies of his records. Such charges must not exceed the actual costs of retrieving and copying the documents. This bill makes note of the authorization in § 8.01-413 to levy certain charges for copies of patient records and that these charges are only authorized, in this law, for requests made by an attorney, his client or any authorized insurer, in anticipation of litigation or in the course of litigation. Such charges shall not be authorized for copies requested because of the safe or relocation of a practice or other reasons relating to a patient's seeking care from another practitioner.

Patron: Reynolds

01/21/03 Senate: Engrossed by Senate as amended

01/21/03 Senate: Printed as engrossed 035886524-E

01/22/03 Senate: Read third time and passed Senate (39-Y 0-N)

01/22/03 Senate: VOTE: PASSAGE R (39-Y 0-N)

01/22/03 Senate: Communicated to House

000033

SB 871 Health regulatory boards;disciplinary procedures/reporting requirement.

Summary as introduced:

Health regulatory boards; disciplinary procedures and reporting requirements. Lowers the disciplinary standard for persons licensed by the Board of Medicine from gross negligence to simple negligence. The bill creates a confidential consent agreement that may be used by a health regulatory board (board), in lieu of discipline, in cases involving minor misconduct where there is little or no injury to a patient or the public. A board shall not be able to use the confidential consent agreement if it believes there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in a manner as to be a danger to patients or the public. Such agreements will include findings of fact and may include an admission or a finding of a violation. Such agreements may be used by a board in future disciplinary proceedings. The bill provides that before reinstatement to practice, a 3-year minimum period must elapse after the revocation of the certificate, registration or license of any person regulated by one of the boards; however, individuals who have had their licenses revoked by a health regulatory board are grandfathered and subject to provisions concerning reinstatement in effect prior to July 1, 2003. Existing reporting requirements by hospitals, health care institutions, health professionals and others concerning disciplinary actions, certain disorders, malpractice judgments, and settlements are clarified concerning timing for the reports, mandated reporters and the information required to be reported to the Board of Medicine. The bill excludes from reporting by hospitals and health care institutions certain health professional misconduct if it has been reported to a peer review panel. Civil penalties for failure to report are a minimum of \$1,000 and are increased up to a maximum of \$25,000 for hospitals and health institutions and \$5,000 for all others. Certification, registration and licensure are conditioned upon the payment of such penalties. The confidentiality of the reported information is clarified. In addition, the Department of Health Professions' biennial reporting requirements on disciplinary actions by each of the health regulatory boards is clarified. Finally, the Director is required to investigate all complaints within the jurisdiction of the relevant health regulatory board and reports received.

Patrons: Deeds; Delegate: Jones, D.C.

01/08/03 Senate: Presented & ordered printed, prefiled 01/07/03 033148212

01/08/03 Senate: Referred to Committee on Education and Health

SB 897 Hospital immunity for vaccinia (smallpox) vaccine administration.

Summary as introduced:

Hospital immunity for vaccinia (smallpox) vaccine administration to certain health care workers. Provides that, in the absence of gross negligence or willful misconduct, any hospital administering vaccinia (smallpox) vaccine, in accordance with the then current recommendations of the Center for Disease Control and Prevention relating to immunization of health care workers, to its emergency room personnel or to other health care workers shall not be liable for any civil damages resulting from injuries caused by administering such vaccine to such emergency room personnel or health care workers or any injuries to any other person that may result from such other person coming into close contact with such vaccinated emergency room personnel or other health care workers. For the purposes of this immunity, "other health care workers" shall include health care workers whose scope of practice authorizes the administration of vaccines or who are first responders or who may otherwise be at risk for exposure to the smallpox virus through direct contact with patients or contaminated or infectious materials. Such health care workers may (i) be employees of the hospital, (ii) be independent contractors with the hospital, (iii) have practice privileges in such hospital, (iv) have agreed to be on call in the hospital's emergency room, or (v) otherwise regularly deliver prehospital care to patients admitted to the hospital.

000034

Patron: Watkins

01/08/03 Senate: Presented & ordered printed, prefiled 01/07/03 033810560
01/08/03 Senate: Referred to Committee for Courts of Justice

SB 920 Health regulatory board investigations.

Summary as introduced:

Health regulatory board investigations. Requires the Department of Health Professions to investigate all reports of disciplinary actions and certain disorders of health professionals received from hospitals and other health care institutions. The hospitals and other health care institutions shall make such reports within 30 days, except that reports concerning the commitment or admission of a health professional as a patient shall continue to be made within 5 days of when the chief administrative officer learns of the commitment or admission.

Patron: Byrne

01/08/03 Senate: Presented & ordered printed, prefiled 01/07/03 035802406
01/08/03 Senate: Referred to Committee on Education and Health

SB 953 Physician assistants; medical malpractice and workers' compensation.

Summary as introduced:

Physician assistants; medical malpractice and workers' compensation. Adds physician assistants to the list of professionals defined as a health care provider for purposes of medical malpractice liability limitations. The measure also recognizes physician assistants under the supervision of a licensed physician as covered providers under the Workers' Compensation Act, and authorizes the Workers' Compensation Commission or a member of the Commission to appoint a physician assistants to conduct a medical examination.

Patron: Blevins

01/08/03 Senate: Presented & ordered printed, prefiled 01/07/03 034154402
01/08/03 Senate: Referred to Committee on Commerce and Labor
01/13/03 Senate: Stricken at request of Patron in C. & L. (15-Y 0-N)

SB 1090 Dental hygienists' possession & administration of certain drugs.

Summary as introduced:

Dental hygienists' possession and administration of certain topical drugs. Provides that, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry. "General supervision" is defined as requiring the dentist to evaluate and prescribe the services but not to require the dentist to be present when the services are delivered. Currently, dentists may "cause" Schedule VI topical drugs to be administered under their "direction and supervision" by a dental hygienist or other authorized agent, i.e., when the dentist is present.

000035

Patron: Bolling

01/17/03 Senate: Constitutional reading dispensed (39-Y 0-N)
 01/17/03 Senate: VOTE: CONST. RDG. DISPENSED R (39-Y 0-N)
 01/20/03 Senate: Read second time and engrossed
 01/21/03 Senate: Read third time and passed Senate (39-Y 0-N)
 01/21/03 Senate: VOTE: PASSAGE R (39-Y 0-N)

SB 1091 Health care data reporting.

Summary as introduced:

Health care data reporting. Requires licensed dentists who are registered as oral and maxillofacial surgeons and certified to perform certain procedures by the Board of Dentistry pursuant to § 54.1-2709.1, to submit required outpatient surgery data relating to several procedures. Only those procedures requiring certification under § 54.1-2709.1 will be reported.

Patrons: Bolling and Rerras; *Delegates:* Brink, Bryant, Devolites, Jones, S.C. and Morgan

01/17/03 Senate: Constitutional reading dispensed (39-Y 0-N)
 01/17/03 Senate: VOTE: CONST. RDG. DISPENSED R (39-Y 0-N)
 01/20/03 Senate: Read second time and engrossed
 01/21/03 Senate: Read third time and passed Senate (39-Y 0-N)
 01/21/03 Senate: VOTE: PASSAGE R (39-Y 0-N)

SB 1104 Contraception not to constitute abortion.

Summary as introduced:

Contraception not to constitute abortion. Provides that contraception is not subject to or governed by the abortion law set forth in Title 18.2. "Contraception" is defined, for all purposes, as the use of any process, device, or method to prevent pregnancy, including steroidal, chemical, physical or barrier, natural or permanent methods for preventing the union of an ovum with the spermatozoon or the subsequent implantation of the fertilized ovum in the uterus.

Patrons: Whipple, Byrne, Edwards, Howell, Lucas, Marsh, Miller, Y.B., Puller and Ticer; *Delegates:* Brink, Plum, Scott, Van Landingham and Van Yahres

01/08/03 Senate: Presented & ordered printed, prefiled 01/08/03 034177564
 01/08/03 Senate: Referred to Committee on Education and Health

SB 1124 Parental consent for abortion; penalty.

Summary as introduced:

Parental consent for abortion; penalty. Requires a physician to obtain parental consent prior to performing an abortion on an unemancipated minor. Under current law, the parents of the minor must be notified of the abortion, but do not have to give consent. The bill eliminates the exception to obtaining consent or judicial authorization where there is suspicion of abuse or neglect. Finally, the bill requires the court on a petition seeking judicial authorization to find the minor to be capable of emancipation when deciding whether the minor is "mature" or not.

Patrons: Stolle, Blevins, Bolling, Chichester, Colgan, Cuccinelli, Hanger, Hawkins, Martin, Miller 00036

K.G., Mims, Newman, Norment, O'Brien, Potts, Puckett, Quayle, Rerras, Ruff, Stosch, Trumbo, Wagner, Wampler, Watkins and Williams; Delegate: Rapp

01/08/03 Senate: Presented & ordered printed, prefiled 01/08/03 038863414
 01/08/03 Senate: Referred to Committee on Education and Health

SB 1151 Protection of infants.

Summary as introduced:

Protection of infants. Punishes as a Class 2 felony willful, deliberate and intentional conduct that causes death or permanent serious bodily injury to a child in utero; if the conduct is willful and deliberate but not intentional, it is punished as a Class 2 felony. The bill requires a woman who gives birth after 24 weeks gestation without a health care professional in attendance to report the birth to the health department or law-enforcement within 72 hours and makes failure to do so when she is reasonably able a Class 1 misdemeanor. A person who takes action to conceal from the health department or law-enforcement a medically unattended and unreported birth or to conceal the identity of the parents where the baby dies, is guilty of a Class 6 felony, . It will be an affirmative defense to a prosecution for child abandonment if a parent delivers a child to a hospital, rescue squad, or fire department within the first 2 weeks of the child's life.

Patrons: Stolle, Blevins and Rerras

01/10/03 Senate: Fiscal impact statement from VCSC (SB1151)
 01/22/03 Senate: Reported from Courts of Justice w/sub (11-Y 2-N 2-A)
 01/22/03 Senate: Rereferred to Finance
 01/23/03 Senate: Committee substitute printed 030647536-S1
 01/23/03 Senate: Fiscal impact statement from VCSC (SB1151S1)

SB 1184 Limiting awards for medical malpractice for emergency assistance.

Summary as introduced:

Limiting awards for medical malpractice for emergency assistance. Limits awards for medical malpractice against physicians to \$50,000 where injury or death results from ordinary negligence in the provision of emergency medical assistance necessitated by a traumatic injury demanding immediate medical attention.

Patron: Wagner

01/08/03 Senate: Presented & ordered printed, prefiled 01/08/03 031727552
 01/08/03 Senate: Referred to Committee for Courts of Justice

SB 1205 Partial birth infanticide.

Summary as introduced:

Partial birth infanticide. Defines "partial birth infanticide" as deliberately and intentionally vaginally delivering a living infant until, in the case of a head-first presentation, the infant's entire head is outside the body of the mother, or, in the case of breech presentation, any part of the infant's trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living infant, and then performing the overt act. The bill punishes the act as a Class 4 felony and repeals the prohibition on partial birth abortion. The bill also redefines "live birth," to

000037

include either complete or partial expulsion of the product of human conception, and states that "complete or partial expulsion or extraction" occurs when at least either the infant's entire head is outside the body of the mother or, in the case of a breech delivery, when any part of the infant's trunk past the navel is outside the body of the mother.

Patrons: Newman, Blevins, Bolling, Colgan, Cuccinelli, Hanger, Martin, Miller, K.G., Mims, Norment, O'Brien, Potts, Puckett, Quayle, Rerras, Reynolds, Ruff, Stolle, Stosch, Trumbo, Wagner, Wampler and Williams; *Delegates:* Byron, Putney and Rapp

01/08/03 Senate: Presented & ordered printed, prefiled 01/08/03 034399504

01/08/03 Senate: Referred to Committee for Courts of Justice

01/09/03 Senate: Fiscal impact statement from VCSC (SB1205)

01/22/03 Senate: Pursuant to S. Rule 20(j), rerefer. by C.J. (14-Y 0-N)

01/22/03 Senate: Rereferred to Finance

SB 1316 Medical malpractice joint underwriting association; activation.

Summary as introduced:

Medical malpractice joint underwriting association; activation. Require the State Corporation Commission to commence an investigation of the voluntary market for medical malpractice insurance not later than July 1, 2003, to determine whether there exists sufficient need to activate the medical malpractice joint underwriting association. The Commission shall activate the association if, after investigation, notice, and hearing, it finds that medical malpractice insurance cannot be made reasonably available in the voluntary market for a significant number of any class, type, or group of providers of health care.

Patron: O'Brien

01/17/03 Senate: Presented & ordered printed 036834510

01/17/03 Senate: Referred to Committee on Commerce and Labor

SB 1327 Limited licenses to certain graduates of foreign medical schools.

Summary as introduced:

Limited licenses to certain graduates of foreign medical schools. Authorizes the Board of Medicine to issue a limited license to practice medicine to a person of professorial rank whose knowledge and special training will benefit a medical school or college or their affiliated hospitals. The foreign medical school graduate can only practice in the hospitals and outpatient clinics or affiliated hospitals for the length of his service as a full-time or adjunct faculty member. The limited licenses for faculty members may be renewed annually upon the recommendation of the dean of the medical school and the continued service of the relevant person as full-time or adjunct faculty. Present law authorizes the foreign graduates serving on medical school faculties to serve only in the hospitals and clinics of the medical school as full-time faculty members.

Patron: Howell

01/17/03 Senate: Presented & ordered printed 036094448

01/17/03 Senate: Referred to Committee on Education and Health

01/20/03 Senate: Fiscal impact statement from DPB (SB1327)

01/23/03 Senate: Reported from Ed. & H. with amendment (14-Y 0-N)

000038

2003 SESSION

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HOUSE BILL NO. 1441
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Health, Welfare and Institutions
on January 21, 2003)

(Patron Prior to Substitute—Delegate Sears)

A BILL to amend and reenact §§ 32.1-27, 54.1-111, 54.1-2400, 54.1-2400.2, 54.1-2400.3, 54.1-2401, 54.1-2505, 54.1-2506, 54.1-2906, 54.1-2908, 54.1-2909, 54.1-2911, 54.1-2915, and 54.1-3480 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 32.1-125.01, 54.1-2408.2, and 54.1-2506.01, and to repeal §§ 54.1-2921 and 54.1-3218 of the Code of Virginia, relating to disciplinary procedures by health regulatory boards; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-27, 54.1-111, 54.1-2400, 54.1-2400.2, 54.1-2400.3, 54.1-2401, 54.1-2505, 54.1-2506, 54.1-2906, 54.1-2908, 54.1-2909, 54.1-2911, 54.1-2915, and 54.1-3480 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 32.1-125.01, 54.1-2408.2 and 54.1-2506.01 as follows:

§ 32.1-27. Penalties, injunctions, civil penalties and charges for violations.

A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner or any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board or Commissioner or any provision of this title may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey such regulation, order or provision of this title and to comply therewith by injunction, mandamus, or other appropriate remedy or, pursuant to § 32.1-27.1, imposition of a civil penalty or appointment of a receiver.

C. Without limiting the remedies which may be obtained in subsection B of this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed \$10,000,000 for each violation, which shall be paid to the general fund, except that civil penalties for environmental pollution shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § 32.1-171.2. Each day of violation shall constitute a separate offense.

D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limits specified in § 32.1-27.1 and subsection C of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under § 32.1-27.1 and subsection C of this section. When civil charges are based upon environmental pollution, the civil charges shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § 32.1-171.2.

§ 32.1-125.01. Failing to report; penalty.

Any hospital or nursing home that has not paid civil penalties assessed for failing to report pursuant to § 54.1-2906 shall not be issued a license or certification or a renewal of such.

§ 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty.

A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.

2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

3. Making use of any titles, words, letters or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.

033139930

HB1441H1

1/21/03 16:59

55 5. Failing to register as a practitioner of a profession or occupation as required by statute or
56 regulation.

57 6. Materially misrepresenting facts in an application for licensure, certification or registration.

58 7. Willfully refusing to furnish a regulatory board information or records required or requested
59 pursuant to statute or regulation.

60 8. Violating any statute or regulation governing the practice of any profession or occupation
61 regulated pursuant to this title.

62 9. Refusing to process a request, tendered in accordance with the regulations of the relevant health
63 regulatory board or applicable statutory law, for patient records or prescription dispensing records
64 after the closing of a business or professional practice or the transfer of ownership of a business or
65 professional practice.

66 Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of
67 a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a
68 thirty-six-month period shall constitute a Class 6 felony.

69 B. In addition to the criminal penalties provided for in subsection A, the Department of
70 Professional and Occupational Regulation or the Department of Health Professions, without
71 compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to
72 enforce the provisions of subsection A and may institute proceedings in equity to enjoin any person,
73 partnership, corporation or any other entity from engaging in any unlawful act enumerated in this
74 section and to recover a civil penalty of at least \$200 but not more than \$1,000,000 per violation,
75 with each unlawful act constituting a separate violation; but in no event shall the civil penalties
76 against any one person, partnership, corporation or other entity exceed \$10,000,000 per year. Such
77 proceedings shall be brought in the name of the Commonwealth by the appropriate Department in the
78 circuit court or general district court of the city or county in which the unlawful act occurred or in
79 which the defendant resides.

80 C. This section shall not be construed to prohibit or prevent the owner of patient records from (i)
81 retaining copies of his patient records or prescription dispensing records after the closing of a business
82 or professional practice or the transfer of ownership of a business or professional practice or (ii)
83 charging a reasonable fee, not in excess of the amounts authorized in § 8.01-413, for copies of patient
84 records.

85 § 54.1-2400. General powers and duties of health regulatory boards.

86 The general powers and duties of health regulatory boards shall be:

87 1. To establish the qualifications for registration, certification or licensure in accordance with the
88 applicable law which are necessary to ensure competence and integrity to engage in the regulated
89 professions.

90 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise
91 required by law, examinations shall be administered in writing or shall be a demonstration of manual
92 skills.

93 3. To register, certify or license qualified applicants as practitioners of the particular profession or
94 professions regulated by such board.

95 4. To establish schedules for renewals of registration, certification and licensure.

96 5. To levy and collect fees for application processing, examination, registration, certification or
97 licensure and renewal that are sufficient to cover all expenses for the administration and operation of
98 the Department of Health Professions, the Board of Health Professions and the health regulatory
99 boards.

100 6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et
101 seq.) which are reasonable and necessary to administer effectively the regulatory system. Such
102 regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100
103 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.

104 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license
105 which such board has authority to issue for causes enumerated in applicable law and regulations.

106 8. To appoint designees from their membership or immediate staff to coordinate with the
107 Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1
108 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.

109 9. To take appropriate disciplinary action for violations of applicable law and regulations.
110 10. To appoint a special conference committee, composed of not less than two members of a
111 health regulatory board or, when required for special conference committees of the Board of
112 Medicine, not less than two members of the Board and one member of the relevant advisory board, to
113 act in accordance with § 2.2-4019 upon receipt of information that a practitioner of the appropriate
114 board may be subject to disciplinary action. The special conference committee may (i) exonerate the
115 practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it
116 may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a
117 monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall
118 become final thirty days after service of the order unless a written request to the board for a hearing
119 is received within such time. If service of the decision to a party is accomplished by mail, three days
120 shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the
121 board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the
122 action of the committee shall be vacated. This subdivision shall not be construed to affect the
123 authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and
124 54.1-3010.

125 11. To convene, at their discretion, a panel consisting of at least five board members or, if a
126 quorum of the board is less than five members, consisting of a quorum of the members to conduct
127 formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision.
128 Any decision rendered by majority vote of such panel shall have the same effect as if made by the
129 full board and shall be subject to court review in accordance with the Administrative Process Act. No
130 member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall
131 serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

132 12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose.
133 Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions
134 for reactivation of licenses or certificates.

135 13. To meet by telephone conference call to consider settlement proposals in matters pending
136 before special conference committees convened pursuant to this section, § 54.1-2919 or § 54.1-3010 or
137 matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel
138 of the board or to consider modifications of previously issued board orders when such considerations
139 have been requested by either of the parties.

140 14. *To request and accept from a certified, registered or licensed practitioner, in lieu of*
141 *disciplinary action, a confidential consent agreement. A confidential consent agreement shall be*
142 *subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner.*
143 *A confidential consent agreement shall include findings of fact and may include an admission or a*
144 *finding of a violation. A confidential consent agreement shall not be considered either a notice or*
145 *order of any health regulatory board, but it may be considered by a board in future disciplinary*
146 *proceedings. A confidential consent agreement shall be entered into only in cases involving minor*
147 *misconduct where there is little or no injury to a patient or the public and little likelihood of*
148 *repetition by the practitioner. A board shall not enter into a confidential consent agreement if there is*
149 *probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional*
150 *misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger*
151 *to the health and welfare of his patients or the public. A certified, registered or licensed practitioner*
152 *who has entered into 2 confidential consent agreements involving a standard of care violation, within*
153 *the 10-year period immediately preceding a board's receipt of the most recent report or complaint*
154 *being considered, shall receive public discipline for any subsequent violation within the 10-year*
155 *period unless the board finds there are sufficient facts and circumstances to rebut the presumption*
156 *that the disciplinary action be made public.*

157 § 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary
158 proceeding.

159 A. Any reports, information or records received and maintained by any health regulatory board in
160 connection with possible disciplinary proceedings, including any material received or developed by a
161 board during an investigation or proceeding, shall be strictly confidential. A board may only disclose
162 such confidential information:

- 163 1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or
 164 order, *or to the respondent in entering into a confidential consent agreement under § 54.1-2400,*
 165 2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or
 166 registrations to practice a health profession;
 167 3. To hospital committees concerned with granting, limiting or denying hospital privileges if a
 168 final determination regarding a violation has been made;
 169 4. Pursuant to an order of a court of competent jurisdiction *for good cause arising from*
 170 *extraordinary circumstances being shown;*
 171 5. To qualified personnel for bona fide research or educational purposes, if personally identifiable
 172 information relating to any person is first deleted. Such release shall be made pursuant to a written
 173 agreement to ensure compliance with this section; or
 174 6. To the Health Practitioners' Intervention Program within the Department of Health Professions
 175 in connection with health practitioners who apply to or participate in the Program.
- 176 B. In no event shall confidential information received, maintained or developed by any board, or
 177 disclosed by the board to others, pursuant to this section, be available for discovery or court subpoena
 178 or introduced into evidence in any ~~medical malpractice suit or other action for damages arising out of~~
 179 ~~the provision of or failure to provide services civil action.~~ This section shall not, however, be
 180 construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7
 181 of Title 18.2.
- 182 C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any
 183 investigation or proceeding by any health regulatory board acting within the scope of its authority.
 184 The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver
 185 of such privilege in any other proceeding.
- 186 D. ~~Orders and notices of a board relating to disciplinary action shall be disclosed.~~
- 187 E. This section shall not prohibit the Director of the Department of Health Professions, after
 188 consultation with the relevant health regulatory board president or his designee, from disclosing to the
 189 Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which
 190 indicates a possible violation of any provision of law relating to the manufacture, distribution,
 191 dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs
 192 and devices, by any individual regulated by any health regulatory board.
- 193 FE. This section shall not prohibit the Director of the Department of Health Professions from
 194 disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of
 195 aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information
 196 required to be made available to the public pursuant to § 54.1-2910.1.
- 197 GF. Orders and notices of the health regulatory boards relating to disciplinary actions shall be
 198 disclosed.
- 199 HG. Any person found guilty of the unlawful disclosure of confidential information possessed by a
 200 health regulatory board shall be guilty of a Class 1 misdemeanor.
 201 § 54.1-2400.3. Disciplinary actions to be reported.
- 202 In addition to the information required by § 54.1-114, the Director shall include in the
 203 Department's biennial report *for each of the health regulatory boards* the number of reports or
 204 complaints of misconduct received and the investigations, charges, findings, and sanctions resulting
 205 therefrom. The report shall reflect the categories of allegations, kinds of complaints and the rates of
 206 disciplinary activity for the various regulated professions and the health regulatory boards having
 207 jurisdiction; summaries explaining the reported data shall be included with the report. *Further, the*
 208 *report shall contain for each profession regulated by a health regulatory board the number of cases*
 209 *in which a sanction was imposed. Cases involving sanctions shall be reported by category of violation*
 210 *for each profession, and 1 reported category shall be cases involving standard of care violations.* The
 211 information shall be reported only in the aggregate without reference to any individual's name or
 212 identifying particulars. In those portions of this report relating to the Board of Medicine, the Director
 213 shall include a summary of the data required by § 54.1-2910.1.
- 214 *The Director shall also include in the Department's biennial report for each health regulatory*
 215 *board (i) case processing time standards for resolving disciplinary cases, (ii) an analysis of the*
 216 *percentage of cases resolved during the last 2 fiscal years that did not meet such standards, (iii) a*

October 23, 2002

Virginia Board of Optometry
6606 West Broad Street, 4th Floor
Richmond, VA 23230-1717

To Whom It May Concern:

I am seeking the Virginia Board of Optometry's approval for optometrists to perform anterior stromal puncture. Several of my patients currently have recurrent corneal erosions. A literature search revealed that the vast majority of patients with this anomaly could be permanently cured utilizing anterior stromal puncture. Several manufacturers mass-produce the modified needle necessary for this procedure. Unfortunately, I could not find this procedure on the Board's list of approved procedures.

The procedure takes only minutes to perform, is painless to the patient, can be done through an intact corneal epithelium, and carries a lower risk of infection than does a bandage contact lens. The CPT code for this procedure is 65600.

The procedure has been discussed at numerous continuing education seminars. Atlas of Primary Eyecare Procedures, by Casser, et. al., (second edition), Chapter 49 (pp. 188-191) is entitled Anterior Stromal Puncture.

This information supports why I feel this procedure should be permitted by the Board of Optometry, and obviously, subsequently paid by third party payers. Please place this request on the agenda of a future meeting of the Board. Thank you for your consideration.

Sincerely,

Kevin J. Green, O. D.

Fax: 353-9630
Email: kevingreen@erols.com

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To assist its licensees, the Virginia Board of Optometry maintains a list of CPT codes as a guideline, though not necessarily all inclusive, which lists those procedures which the Board has determined are within the legally authorized scope of practice of a Virginia licensed doctor of optometry. I would respectfully request the Board add CPT 65600 to the list of approved codes with certain restrictions.

As is often the case with CPT code headings and descriptions, CPT 65600 is somewhat misleading in that it is named as "Multiple Punctures of Anterior Cornea." It is important to note that the definition of "practice of optometry" under section 54.1-3200 of the Code of Virginia prohibits "treatment through surgery, including, but not limited to, laser surgery or other invasive modalities". Consequently, to comply with the statutory definition of the practice of optometry, I would request the Board, in adding CPT 65600 to the approved list of codes, clarify that such "excludes corneal tattooing."

The same definition of the practice of optometry clearly indicates a Virginia optometrist may provide "optometric treatment" in accordance with the practice act. Additionally, the acts of the General Assembly clearly state the Board of Optometry is the sole authority in determining the scope of practice of optometrists in Virginia.

CPT 65600 (excluding corneal tattooing) is clearly a medically appropriate means of optometric treatment, particularly for recurrent corneal erosion (RCE), which is a relatively common cause of eye pain and suffering. RCE can occur subsequent to corneal abrasion, concomitant with epithelial basement membrane dystrophy, and as a result of faulty basement membrane production as seen in diabetics. All are conditions which a Virginia optometrist is legally authorized and clinically trained to diagnosis and treat. Over the years, many treatments have been proposed for this condition including prolonged (up to 12 weeks) instillation of 5% hypertonic saline, bandage contact lenses, chemical curettage (CPT 65434), mechanical curettage (CPT 65434), manual or YAG anterior stromal puncture (ASP), laser thermal keratoplasty (LTK), and pain management. Anterior stromal puncture (CPT 65600) is at least equally effective as LTK for the management of RCE, although it is technically easier, has a lower complication rate, a significantly lower cost, causes less patient discomfort, heals more quickly, and does not require a bandage contact lens.

In understanding this procedure, I reference the Atlas of Primary Eyecare Procedures, by Casser, et. al., 2nd ed., Chapter 49, pages 188-191 which describes the procedure in detail. The equipment is merely a canulized needle with the microtip of the

bevel bent 90 degrees. These are sold by medical supply houses as capsulorhexis needles. Following topical anesthesia, indentations are placed using the bent tip having 0.5 mm spacing and extending 1.5 mm beyond the borders of the lesion. These indentations stimulate thicker than normal basement membrane regeneration, enhancing epithelial adhesion. Sodium fluorescein instillation shows minimal epithelial disturbance which resolves within three days, during which time the patient is put on topical antibiotics and NSAIDs.

According to Peter Laibson, MD (as quoted from the Archives of Ophthalmology and Contact Lens Association of Ophthalmologists) the procedure "takes only minutes to perform, is painless, can be done through an intact corneal epithelium, and carries a lower risk of infection than does a bandage contact lens."

Initial question may be raised by the fact that this procedure involves a needle, which by the way, so can corneal foreign body removal. However, in understanding the shape and use of the needle, such is clearly a non-invasive procedure. By way of comparison, this procedure is clearly less invasive (if invasive at all) when compared to other CPT codes and procedures approved by this Board (i.e.- 65220 and 65222 corneal foreign body removal, 65430 scraping of cornea for smear and/or culture, and 65435 corneal curettage with or without chemocauterization.)

In addressing the issue of adding a restriction to approval of certain CPT codes, precedent has already been set by this Board in approving epilation by forceps only.

In conclusion, I respectfully request the Board to add to its list of approved codes "CPT 65600 Anterior Stromal Puncture limited to needles specifically bent for use in this procedure, excluding corneal tattooing and excluding use of lasers for treatment purposes."

Attachment 3



**COMPLICATION(S) DUE TO CONTACT LENSES
DISPENSED WITHOUT A VALID PRESCRIPTION
REPORTING FORM**

Tel: (314) 785-6000 • Fax: (866) 886-6164 • E-mail: arbo@arbo.org

Reference Letters and/or Numbers for Your Personal Use Only:
(which does not identify the individual patient)

- | | |
|---|--|
| <input type="checkbox"/> Burning | <input type="checkbox"/> Dry Eye |
| <input type="checkbox"/> Conjunctivitis | <input type="checkbox"/> Foreign Body Sensation |
| <input type="checkbox"/> Corneal Distortion | <input type="checkbox"/> GPC |
| <input type="checkbox"/> Corneal Edema | <input type="checkbox"/> Itching |
| <input type="checkbox"/> Corneal Epithelial Defect | <input type="checkbox"/> Keratitis |
| <input type="checkbox"/> Corneal Infiltrate | <input type="checkbox"/> Neovascularization/Pannus |
| <input type="checkbox"/> Corneal Opacity | <input type="checkbox"/> Ocular Inflammation |
| <input type="checkbox"/> Corneal Ulcer | <input type="checkbox"/> Pain |
| <input type="checkbox"/> Discharge | <input type="checkbox"/> Stinging |
| <input type="checkbox"/> Other <input type="text"/> | |

Treatment Plan:

- Lubricants
- Antibacterial Topical/Oral
- Antibacterial/Anti-Inflammatory Topical/Oral
- Surgical Intervention
- Other

Outcome:

- Stinging
- Long Term but Not Permanent Vision Loss
- Permanent Vision Loss
- Penetrating Keratoplasty
- Other

Financial Impact to Patient/Health Care Resources Utilized

- Medical Costs (Out of Pocket) \$
- Medical Costs (Third Party Payer) \$
- Sick Days Lost \$
- Loss of Income due to Office Visit, \$
Total or Partial Disability, etc.

Date: Doctor: Phone:

To submit, click the Submit button below or print the form and fax it to (866) 886-6164.

16 Hours of Continuing Education Credit for Annual License Renewal

The VOA supports requiring doctors of optometry to successfully complete the maximum number of hours set forth in Virginia law for license renewal. Requiring 16 CE hours annually is appropriate:

- 1) Not a burden on any licensee due to widespread availability of courses local, throughout the state, regional, national, correspondence and internet. Additionally, a number of courses are now available free of charge.
- 2) With the public relying on doctors of optometry for diagnosis and treatment of conditions of increased complexity, it's in the public's best interest to know their primary care eye doctor is staying up to date on clinical advancements.

Specifying 2 Hours of CE be Dedicated to TPAs

The VOA strongly opposes any requirement which mandates a certain number of CE hours be dedicated to any one area, including therapeutic pharmaceutical agents.

- 1) There is no evidence of any need for this requirement. We take strong objection to the printed language stated in the "Purpose" of this proposed regulation. That statement implies that optometrists are not remaining abreast of drug interactions and efficacy or are not staying familiar with new drug as they are introduced. TPA Certified optometrists have and continue to prove they safely and properly administer and prescribe medications to treat conditions of the human eye and vision system. When one compares disciplinary cases and malpractice cases of optometrists with physicians, including ophthalmologists, there is a clear and continuous record that optometrists administer and prescribe these drugs in a safer and more medically appropriate manner than most physicians.
- 2) TPA Certification in Virginia already requires greater clinical training than most other states.
- 3) Other health care professions authorized to prescribe medications are not required to complete a specific number of CE hours to obtain license renewal.
- 4) Requiring hours of CE in any certain area implies that those areas not specified are of lesser importance. Is diagnosis of pathology more or less important than an update on pharmaceuticals? Which is more important... proper fit and patient contact lens care instruction to reduce the likelihood of a corneal ulcer, or which solution should be prescribed for a contact lens patient with dry eye syndrome?