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# Fast-Track Regulation Agency Background Document

Agency name	State Board of Health	
Virginia Administrative Code (VAC) Chapter citation(s)		
VAC Chapter title(s)	Regulations for the Licensure of Hospitals in Virginia	
Action title	Amend Regulation to Conform to Chapters 219, 233, and 525 of the 2021 Acts of Assembly, Special Session I	
Date this document prepared	March 2, 2022	

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

# **Brief Summary**

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapter 219 of the 2021 Acts of Assembly, Special Session I amends Code of Virginia § 32.1-127(B), requiring the State Board of Health to promulgate regulations that "require each hospital...to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient, in accordance with such regulations, while receiving inpatient services."

Chapter 233 of the 2021 Acts of Assembly, Special Session I amends Code of Virginia § 32.1-127(B)(27), requiring the Board to amend regulations that "require each hospital with an emergency department to establish a protocol for the treatment and discharge of individuals experiencing a substance use-related emergency."

Chapter 525 of the 2021 Acts of Assembly, Special Session I amends Code of Virginia § 32.1-127(B), requiring the Board to promulgate regulations that "require each hospital...to establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect

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consistent with guidance from the Centers for Disease Control and Prevention and the Centers for Medicare and Medicaid Services and subject to compliance with any executive order, order of public health, Department guidance, or any other applicable federal or state guidance having the effect of limiting visitation" when there is "a declared public health emergency related to a communicable disease of public health threat."

### Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"Board" means the State Board of Health.

### **Statement of Final Agency Action**

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Board approved the fast-track amendments for 12VAC5-410-10 *et seq.*, Regulations for the Licensure of Hospitals in Virginia, on March 31, 2022.

### Mandate and Impetus

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

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The mandate for these regulatory changes is found in Chapters 219, 233, and 525 of the 2021 Acts of Assembly, Special Session I. It is anticipated that this rulemaking will be noncontroversial and therefore appropriate for the fast-track process because it is being used to conform 12VAC5-410-10 *et seq.* to the Code of Virginia and no new requirements are being developed beyond what Chapters 219, 233, and 525 of the 2021 Acts of Assembly, Special Session I mandate.

## Legal Basis

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

Code of Virginia § 32.1-12 gives the Board the responsibility to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Code of Virginia § 32.1-127 requires the Board to adopt regulations that include minimum standards for (i) the

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

### Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

This regulation is being amended due to the changes to Code of Virginia § 32.1-127. The Board is required by Code of Virginia § 32.1-127 to promulgate regulations for the licensure of hospitals in order to protect the health, safety, and welfare of citizens receiving care in hospitals. The goal of the regulatory change is to conform the regulations to the statute. It is intended to solve the problem of the regulation not reflecting the legislative mandates of Chapters 219, 233, and 525 of the 2021 Acts of Assembly, Special Session I.

### Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

#### 12VAC5-410-10. Definitions.

Added a definition for "intelligent personal assistant."

#### 12VAC5-410-230. Patient care management.

Creates a new subdivision in subsection F requiring general hospitals to have a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect during public health emergencies related to communicable diseases. Creates a new subsection L requiring general hospitals to establish policies governing the access and use of intelligent personal assistants.

12VAC5-410-280. Emergency service.

Amends subsection J

#### 12VAC5-410-1170. Policy and procedures manual.

Creates a new subdivision in subsection F requiring outpatient surgical hospitals to have a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect during public health emergencies related to communicable diseases

### Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

This action is being used to conform 12VAC5-410-10 *et seq.* to existing requirements in the Code of Virginia. The advantage to the public, the agency, and the Commonwealth is that 12VAC5-410-10 *et seq.* are in compliance with legislative changes enacted by the General Assembly during the 2021 Special Session I. There are no disadvantages to the public, the agency, or the Commonwealth. There are no other pertinent matters of interest to the regulated community, government officials, and the public.

# **Requirements More Restrictive than Federal**

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements about intelligent personal assistants, which is the subject of the mandate in Chapter 219 of the 2021 Acts of Assembly, Special Session I.

42 CFR 482.55 requires general hospitals to meet the emergency needs of patients. The legislative mandate in Chapter 233 of the 2021 Acts of Assembly, Special Session I is more specific than federal requirements about emergency needs of patients experiencing a substance use emergency, though the mandate does not exceed and is not more restrictive than applicable federal requirements.

42 CFR § 482.13(h) requires general hospitals to have written policies and procedures regarding the visitation rights of patients, including addressing any clinical restrictions or limitations on such rights. The legislative mandate in Chapter 525 of the 2021 Acts of Assembly, Special Session I is more specific than federal requirements about the clinical restrictions or limitations those policies and procedures must address, though the mandate does not exceed and is not more restrictive than applicable federal requirements.

# Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

#### Other State Agencies Particularly Affected

Virginia Commonwealth University Health Systems Authority will be required to comply with the regulatory change.

#### Localities Particularly Affected

Lee County Hospital Authority and Chesapeake Hospital Authority will be required to comply with the regulatory change.

#### Other Entities Particularly Affected

The 106 licensed general hospitals (including those operated by Lee County Hospital Authority and Chesapeake Hospital Authority) and 63 outpatient surgical hospitals will be required to comply with the regulatory change.

# **Economic Impact**

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

### Impact on State Agencies

<i>For your agency</i> : projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail;	None
<ul> <li>b) delineation of one-time versus on-going expenditures; and</li> <li>c) whether any costs or revenue loss can be absorbed within existing resources</li> </ul>	
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	None
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The regulatory change is designed to conform the regulation to the Code of Virginia.

### Impact on Localities

Projected costs, savings, fees or revenues	None
resulting from the regulatory change.	
Benefits the regulatory change is designed to	The regulatory change is designed to conform
produce.	the regulation to the Code of Virginia.

### Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Licensed general hospitals and licensed outpatient surgical hospitals.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	106 general hospitals and 63 outpatient surgical hospitals. Three of the outpatient surgical hospitals are estimated to meet the definition of "small business"
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:	As all licensed hospitals are already required to comply with the Code of Virginia, there are no projected costs for compliance with the regulatory change that conforms to the Code of Virginia.

<ul> <li>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</li> <li>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</li> <li>c) fees;</li> <li>d) purchases of equipment or services; and</li> <li>e) time required to comply with the requirements.</li> </ul>	
Benefits the regulatory change is designed to	The regulatory change is designed to conform the
produce.	regulation to the Code of Virginia.

# **Alternatives to Regulation**

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

No alternative was considered because the General Assembly required the Board to adopt regulations governing the licensure of hospitals and amending the regulation is the least burdensome, least intrusive, and less costly method to accomplish the purpose of this action.

# **Regulatory Flexibility Analysis**

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

The Board is required to regulate the licensure of hospitals consistent with the provisions of Article 1 (§ 32.1-123 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia. Initiation of this regulatory action is the least burdensome method to conform the Regulations for the Licensure of Hospitals in Virginia (12VAC5-410-10 *et seq.*) to the statute.

# **Public Participation**

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

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

# **Detail of Changes**

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an <u>existing</u> VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed <u>and replaced</u>, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Current chapter- section number	New chapter- section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
410-10	N/A	There is no existing definition of "intelligent personal assistant."	<ul> <li>CHANGE: The Board is proposing to add the following definition:</li> <li><u>"Intelligent personal assistant" means a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as digital assistants or virtual assistants.</u></li> <li>INTENT: The intent of the new definition is to conform 12VAC5-410-10 <i>et seq.</i> to the Code of Virginia.</li> <li>RATIONALE: The rationale for the new requirements is that Code of Virginia §</li> </ul>

### Table 1: Changes to Existing VAC Chapter(s)

			32.1-127(B)(29) includes a definition for intelligent personal assistant. <b>LIKELY IMPACT:</b> The likely impact of the new requirements is reduced confusion for regulants about what an intelligent personal assistant is.
410-230	N/A	12VAC5-410-230. Patient care management. A. All patients shall be under the care of a member of the medical staff. B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures. C. Each hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' 2000 Hospital Accreditation Standards, January 2000. The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities. Patients shall be given a copy of their rights and responsibilities upon admission. D. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes. 1. Hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, may accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders. 2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders. 2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital	<ul> <li>CHANGE: The Board is proposing the following new requirements:</li> <li>12VAC5-410-230. Patient care management. <ul> <li>A. All patients shall be under the care of a member of the medical staff.</li> <li>B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures.</li> <li>C. Each hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' 2000 Hospital Accreditation Standards, January 2000. The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities upon admission.</li> <li>D. No medication or treatment shall be given a copy of their rights and responsibilities upon admission.</li> <li>D. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes.</li> <li>1. Hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, may accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders.</li> <li>2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital policies and procedures, emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders.</li> <li>2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital policies and procedures, emergency telephone and other verbal orders shall be signed within a reasonable period of time not to exceed 72 hours, by the person giving the order, or, when such person is not available, cosigned by another physician or other person authorized to give the order.</li> </ul></li></ul>

policies and procedures,	E. Each hospital shall have a reliable
emergency telephone and	method for identification of each patient,
other verbal orders shall be	including newborn infants.
signed within a reasonable	F. Each hospital shall include in its
period of time not to	visitation policy a provision allowing each
exceed 72 hours, by the	adult patient to receive visits from any
person giving the order, or,	individual from whom the patient desires
when such person is not	to receive visits, subject to other
available, cosigned by	restrictions contained in the visitation
another physician or other	policy including the patient's medical
person authorized to give	condition and the number of visitors
the order.	permitted in the patient's room
	simultaneously.
E. Each hospital shall have	-
a reliable method for	<u>1. During a declared public health</u>
identification of each patient,	emergency related to a communicable
including newborn infants.	disease of public health threat, each
F. Each hospital shall	hospital shall establish a protocol to
include in its visitation policy a	allow patients to receive visits from a
provision allowing each adult	rabbi, priest, minister, or clergy of any
patient to receive visits from	religious denomination or sect
any individual from whom the	consistent with guidance from the
patient desires to receive	Centers for Disease Control and
visits, subject to other	Prevention and the Centers for
restrictions contained in the	Medicare and Medicaid Services and
visitation policy including the	subject to compliance with any
patient's medical condition	executive order, order of public health,
and the number of visitors	department guidance, or any other
permitted in the patient's room	applicable federal or state guidance
simultaneously.	having the effect of limiting visitation.
G. If the Governor has	a. Such protocol may restrict the
declared a public health	frequency and duration of visits and
emergency related to the	may require visits to be conducted
novel coronavirus (COVID-	virtually using interactive audio or
19), each hospital shall allow	video technology.
a person with a disability who	b. Any such protocol may require
requires assistance as a	the person visiting a patient
result of such disability to be	pursuant to subdivision F 1 of this
accompanied by a designated	section to comply with all
support person at any time	reasonable requirements of the
during which health care	hospital adopted to protect the
services are provided.	health and safety of the person,
1. In any case in which	patients, and staff of the hospital.
health care services are	G. If the Governor has declared a
provided in an inpatient	public health emergency related to the
setting, and the duration of	novel coronavirus (COVID-19), each
health care services in	hospital shall allow a person with a
such inpatient setting is	disability who requires assistance as a
anticipated to last more	result of such disability to be
than 24 hours, the person	accompanied by a designated support
with a disability may	person at any time during which health
designate more than one	care services are provided.
-	-
designated support	1. In any case in which health care
person. However, no	services are provided in an inpatient
hospital shall be required	setting, and the duration of health care
to allow more than one	services in such inpatient setting is
designated support person	anticipated to last more than 24 hours,

to be present with a person	the person with a disability may
with a disability at any time.	designate more than one designated
2. A designated support	support person. However, no hospital
person shall not be subject	shall be required to allow more than
to any restrictions on	one designated support person to be
visitation adopted by such	present with a person with a disability
hospital. However, such	at any time.
designated support person	2. A designated support person shall
may be required to comply	not be subject to any restrictions on
with all reasonable	visitation adopted by such hospital.
requirements of the	However, such designated support
hospital adopted to protect	person may be required to comply with
the health and safety of	all reasonable requirements of the
patients and staff of the	hospital adopted to protect the health
hospital.	and safety of patients and staff of the
3. Every hospital shall	hospital.
establish policies	3. Every hospital shall establish
applicable to designated	policies applicable to designated
support persons and shall:	support persons and shall:
a. Make such policies	a. Make such policies available to
available to the public	the public on a website maintained
on a website maintained	by the hospital; and
by the hospital; and	b. Provide such policies, in
b. Provide such	writing, to the patient at such time as
policies, in writing, to	health care services are provided.
the patient at such time	H. Each hospital that is equipped to
as health care services	provide life-sustaining treatment shall
are provided.	develop a policy to determine the medical
H. Each hospital that is	or ethical appropriateness of proposed
equipped to provide life-	medical care, which shall include:
sustaining treatment shall	1. A process for obtaining a second
develop a policy to determine	opinion regarding the medical and
the medical or ethical	ethical appropriateness of proposed
appropriateness of proposed	medical care in cases in which a
medical care, which shall	physician has determined proposed
include:	care to be medically or ethically
1. A process for	inappropriate;
obtaining a second opinion	2. Provisions for review of the
regarding the medical and	determination that proposed medical
ethical appropriateness of	care is medically or ethically
proposed medical care in	inappropriate by an interdisciplinary
cases in which a physician	medical review committee and a
has determined proposed	determination by the interdisciplinary
care to be medically or	medical review committee regarding
ethically inappropriate;	the medical and ethical
2. Provisions for review	appropriateness of the proposed
of the determination that	health care of the patient;
proposed medical care is	3. Requirements for a written
	explanation of the decision of the
medically or ethically	•
inappropriate by an	
interdisciplinary medical	committee, which shall be included in
review committee and a	the patient's medical record; and
determination by the	4. Provisions to ensure the patient,
interdisciplinary medical	the patient's agent, or the person
review committee	authorized to make the patient's
regarding the medical and	medical decisions in accordance with §

I	
ethical appropriateness of	54.1-2986 of the Code of Virginia is
the proposed health care of	informed of the patient's right to obtain
the patient;	the patient's medical record and the
3. Requirements for a	right to obtain an independent medical
written explanation of the	opinion and afforded reasonable
decision of the	opportunity to participate in the medical
interdisciplinary medical	review committee meeting.
review committee, which	The policy shall not prevent the patient,
shall be included in the patient's medical record;	the patient's agent, or the person authorized to make the patient's medical
and	decisions from obtaining legal counsel to
4. Provisions to ensure	represent the patient or from seeking
the patient, the patient's	other legal remedies, including court
agent, or the person	review, provided that the patient, the
authorized to make the	patient's agent, person authorized to
patient's medical decisions	make the patient's medical decisions, or
in accordance with § 54.1-	legal counsel provide written notice to the
2986 of the Code of	chief executive officer of the hospital
Virginia is informed of the	within 14 days of the date of the
patient's right to obtain the	physician's determination that proposed
patient's medical record	medical treatment is medically or ethically
and the right to obtain an	inappropriate as documented in the
independent medical	patient's medical record.
opinion and afforded	I. Each hospital shall establish a
reasonable opportunity to	protocol requiring that, before a health
participate in the medical	care provider arranges for air medical
review committee meeting.	transportation services for a patient who
The policy shall not	does not have an emergency medical
prevent the patient, the	condition as defined in 42 USC §
patient's agent, or the	1395dd(e)(1), the hospital shall provide
person authorized to make	the patient or the patient's authorized
the patient's medical decisions from obtaining	representative with written or electronic
legal counsel to represent	notice that the patient (i) may have a choice of transportation by an air medical
the patient or from seeking	transportation provider or medically
other legal remedies,	appropriate ground transportation by an
including court review,	emergency medical services provider and
provided that the patient,	(ii) will be responsible for charges incurred
the patient's agent, person	for such transportation in the event that
authorized to make the	the provider is not a contracted network
patient's medical	provider of the patient's health insurance
decisions, or legal counsel	carrier or such charges are not otherwise
provide written notice to	covered in full or in part by the patient's
the chief executive officer	health insurance plan.
of the hospital within 14	J. Each hospital shall provide written
days of the date of the	information about the patient's ability to
physician's determination	request an estimate of the payment
that proposed medical	amount for which the participant will be
treatment is medically or	responsible pursuant to § 32.1-137.05 of
ethically inappropriate as	the Code of Virginia. The written
documented in the	information shall be posted conspicuously
patient's medical record.	in public areas of the hospital, including
I. Each hospital shall	admissions or registration areas, and
establish a protocol requiring	included on any website maintained by
that, before a health care	the hospital.
provider arranges for air	L

medical transportation	K. Each hospital shall establish
services for a patient who	protocols to ensure that any patient
does not have an emergency	scheduled to receive an elective surgical
medical condition as defined	procedure for which the patient can
in 42 USC § 1395dd(e)(1), the	reasonably be expected to require
hospital shall provide the	outpatient physical therapy as a follow-up
patient or the patient's	treatment after discharge is informed that
authorized representative	the patient:
with written or electronic	1. Is expected to require outpatient
notice that the patient (i) may	physical therapy as a follow-up
have a choice of	treatment; and
transportation by an air	2. Will be required to select a
medical transportation	physical therapy provider prior to being
provider or medically	discharged from the hospital.
appropriate ground	L. Each hospital shall establish and
transportation by an	implement policies to ensure the
emergency medical services	permissible access to and use of an
provider and (ii) will be	intelligent personal assistant provided by
responsible for charges	a patient while receiving inpatient
incurred for such	services. Such policies shall ensure
transportation in the event	protection of health information in
that the provider is not a	accordance with the requirements of the
contracted network provider	federal Health Insurance Portability and
of the patient's health	Accountability Act of 1996, 42 U.S.C. §
insurance carrier or such	<u>1320d et seq., as amended.</u>
charges are not otherwise	<u>rozou or ooq.; uo umonuou.</u>
covered in full or in part by the	Statutory Authority
patient's health insurance	§§ 32.1-12 and 32.1-127 of the Code of
plan.	Virginia.
J. Each hospital shall	
provide written information	<b>INTENT:</b> The intent of the new
about the patient's ability to	requirements is to conform 12VAC5-410-
request an estimate of the	10 <i>et seq</i> . to the Code of Virginia.
payment amount for which the	
participant will be responsible	<b>RATIONALE:</b> The rationale for the new
pursuant to § 32.1-137.05 of	requirements is that Code of Virginia §
the Code of Virginia. The	32.1-127(B)(29) and (30) now require the
written information shall be	regulations for the licensure of hospitals
	to include minimum requirements about
posted conspicuously in public areas of the hospital,	(i) access and use of intelligent personal
	assistants and (ii) protocols that allow
· · · · · · · · · · · · · · · · · · ·	patients to receive visits from a rabbi,
<b>U</b>	•
included on any website	priest, minister, or clergy of any religious
maintained by the hospital.	denomination or sect during public health
K. Each hospital shall	emergencies related to communicable
establish protocols to ensure	diseases.
that any patient scheduled to	
receive an elective surgical	LIKELY IMPACT: The likely impact of the
procedure for which the	new requirements is reduced confusion
patient can reasonably be	for regulants about what their obligations
expected to require outpatient	are regarding intelligent personal
physical therapy as a follow-	assistants and visitation during a public
up treatment after discharge	health emergency.
is informed that the patient:	
1. Is expected to require	
outpatient physical therapy	

		on a fallow up tracting out	
		as a follow-up treatment; and	
		2. Will be required to	
		select a physical therapy	
		provider prior to being	
		discharged from the	
		hospital.	
		Statutory Authority	
		§§ 32.1-12 and 32.1-127 of	
		the Code of Virginia.	
410-280	N/A	12VAC5-410-280.	CHANGE: The Board is proposing the
		Emergency service.	following new requirements:
		A. Hospitals with an	
		emergency	12VAC5-410-280. Emergency service.
		department/service shall	A. Hospitals with an emergency
		have 24-hour staff coverage	department/service shall have 24-hour
		and shall have at least one physician on call at all times.	staff coverage and shall have at least one physician on call at all times.
		Hospitals without emergency	Hospitals without emergency service
		service shall have written	shall have written policies governing the
		policies governing the	handling of emergencies.
		handling of emergencies.	B. No less than one registered nurse
		B. No less than one	shall be assigned to the emergency
		registered nurse shall be	service on each shift. Such assignment
		assigned to the emergency	need not be exclusive of other duties, but
		service on each shift. Such	must have priority over all other
		assignment need not be exclusive of other duties, but	assignments. C. Those hospitals that provide
		must have priority over all	ambulance services shall comply with
		other assignments.	Article 2.1 (§ 32.1-111.1 et seq.) of
		C. Those hospitals that	Chapter 4 of Title 32.1 of the Code of
		provide ambulance services	Virginia and 12VAC5-31.
		shall comply with Article 2.1	D. The hospital shall provide
		(§ 32.1-111.1 et seq.) of	equipment, drugs, supplies, and ancillary
		Chapter 4 of Title 32.1 of the	services commensurate with the scope
		Code of Virginia and 12VAC5-31.	of anticipated needs, including radiology
		D. The hospital shall	and laboratory services and facilities for handling and administering of blood and
		provide equipment, drugs,	blood products. Emergency drugs and
		supplies, and ancillary	equipment shall remain accessible in the
		services commensurate with	emergency department at all times.
		the scope of anticipated	E. Current roster of medical staff
		needs, including radiology	members on emergency call, including
		and laboratory services and	alternates and medical specialists or
		facilities for handling and administering of blood and	consultants shall be posted in the
		blood products. Emergency	emergency department. F. Hospitals shall make special
		drugs and equipment shall	training available, as required, for
		remain accessible in the	emergency department personnel.
		emergency department at all	G. Toxicology reference material and
		times.	poison antidote information shall be
		E. Current roster of	available along with telephone numbers
		medical staff members on	of the nearest poison control centers.
		emergency call, including	H. Each emergency department shall
		alternates and medical	post notice of the existence of a human

trafficking hotline to alert possible specialists or consultants shall be posted in the witnesses or victims of human trafficking emergency department. to the availability of a means to gain F. Hospitals shall make assistance or report crimes. This notice special training available, as shall be in a place readily visible and required, for emergency accessible to the public, such as the department personnel. patient admitting area or public or patient G. Toxicology reference restrooms. The notice shall meet the material and poison antidote requirements of § 40.1-11.3 C of the information shall be available Code of Virginia. along with telephone I. Every hospital with an emergency numbers of the nearest department shall establish protocols to poison control centers. ensure that security personnel of the emergency department receive training H. Each emergency appropriate to the populations served by department shall post notice of the existence of a human the emergency department. This training trafficking hotline to alert may include training based on a traumapossible witnesses or victims informed approach in identifying and of human trafficking to the safely addressing situations involving availability of a means to gain patients or other persons who pose a risk assistance or report crimes. of harm to themselves or others due to This notice shall be in a place mental illness or substance abuse or readily visible and accessible who are experiencing a mental health to the public, such as the crisis. patient admitting area or J. Each hospital with an emergency public or patient restrooms. department shall establish a protocol The notice shall meet the for the treatment and discharge of requirements of § 40.1-11.3 individuals experiencing a substance C of the Code of Virginia. use-related emergency, to which I. Every hospital with an shall include the completion of emergency department shall appropriate assessments or establish protocols to ensure screenings provisions for: that security personnel of the 1. Appropriate screening and emergency department assessment of individuals receive training appropriate experiencing substance use-related to the populations served by emergencies to identify medical the emergency department. interventions necessary for the This training may include treatment of the individual in the training based on a traumaemergency department. The protocol informed approach in may also include a process for identifying and safely patients who are discharged directly addressing situations from the emergency department for involving patients or other the recommendation of; and 2. Recommendations for follow-up persons who pose a risk of harm to themselves or others care following discharge for due to mental illness or any patient identified as having substance abuse or who are a substance use disorder, depression. experiencing a mental health or mental health disorder, as appropriate, that may include for crisis. J. Each hospital with an patients who have been treated for emergency department shall substance use-related emergencies, establish a protocol for including opioid overdose, or other treatment of individuals high-risk patients: experiencing a substance 1. Instructions for distribution a. use-related emergency to The dispensing of naloxone or include the completion of other opioid antagonist used for

	appropriate assessments or	overdose reversal pursuant to
	screenings to identify medical	subsection X of § 54.1-3408 at
	interventions necessary for	discharge; or
	the treatment of the individual	b. Issuance of a prescription for
	in the emergency	and information about accessing
	department. The protocol	naloxone or other opioid
	may also include a process	antagonist used for overdose
	for patients who are	reversal, including information
	discharged directly from the	about accessing naloxone or other
	emergency department for	opioid antagonist used for
	the recommendation of	overdose reversal at a community
	follow-up care following	pharmacy, including any outpatient
	discharge for any identified	pharmacy operated by the
	substance use disorder,	hospital, or through a community
	depression, or mental health	organization or pharmacy that may
	disorder, as appropriate, that	dispense naloxone or other opioid
	may include:	antagonist used for overdose
	1. Instructions for	reversal without a prescription
	distribution of naloxone;	
		pursuant to a statewide standing
	2. Referrals to peer	order.
	recovery specialists and	2. Referrals Such protocols may also
	community-based	provide for referrals of individuals
	providers of behavioral	experiencing a substance use-related
	health services; or	emergency to peer recovery specialists
	<ol><li>Referrals for</li></ol>	and community-based providers of
	pharmacotherapy for	behavioral health services <del>;</del> , or <u>to</u>
	treatment of drug or	providers of pharmacotherapy for the
	alcohol dependence or	treatment of drug or alcohol dependence
	mental health diagnoses.	or mental health diagnoses.
	5	3. Referrals for pharmacotherapy for
	Statutory Authority	treatment of drug or alcohol dependence
	§§ 32.1-12 and 32.1-127 of	or mental health diagnoses.
	the Code of Virginia.	or mental nearth diagnoses.
	the code of virginia.	Statutory Authority
		§§ 32.1-12 and 32.1-127 of the Code of
		Virginia.
		<b>INTENT:</b> The intent of the new
		requirements is to conform 12VAC5-410-
		10 et seq. to the Code of Virginia.
		<b>RATIONALE:</b> The rationale for the new
		requirements is that Code of Virginia §
		32.1-127(B)(27) was amended to modify
		the minimum requirements for hospitals
		with an emergency department that are
		treating and discharging individuals
		experiencing a substance use-related
		emergency.
		LIKELY IMPACT. The likely impact of
		LIKELY IMPACT: The likely impact of
		the new requirements is reduced
		confusion for regulants about what their
		obligations are regarding the treatment
		and discharge of individuals experiencing
		a substance use-related emergency.

410-	N/A	12VAC5-410-1170. Policy	<b>CHANGE:</b> The Board is proposing the
1170		and procedures manual.	following new requirements:
		A. Each outpatient surgical hospital shall develop a policy and procedures	12VAC5-410-1170. Policy and procedures manual.
		manual that shall include provisions covering the following items: 1. The types of	A. Each outpatient surgical hospital shall develop a policy and procedures manual that shall include provisions covering the following items:
		emergency and elective procedures that may be performed in the	<ol> <li>The types of emergency and elective procedures that may be performed in the facility.</li> <li>Types of anesthesia that may</li> </ol>
		facility.	be used.
		2. Types of anesthesia that may	3. Admissions and discharges, including:
		be used. 3. Admissions and discharges,	<ul> <li>a. Criteria for evaluating the patient before admission and before discharge; and</li> </ul>
		including: a. Criteria for evaluating the patient before admission and before discharge; and	b. Protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require
		b. Protocols to ensure that any patient	outpatient physical therapy as a follow-up treatment after discharge is informed that the patient:
		scheduled to receive an elective surgical	<ul> <li>(1) Is expected to require outpatient physical therapy as a follow-up treatment; and</li> </ul>
		procedure for which the patient can reasonably be expected to require outpatient	(2) Will be required to select a physical therapy provider prior to being discharged from the hospital.
		require outpatient physical therapy as a follow-up treatment after	4. Written informed consent of patient prior to the initiation of any procedures.
		discharge is informed that the patient:	5. Procedures for housekeeping and infection control and prevention.
		(1) Is expected to	6. Disaster preparedness.
		require outpatient	7. Facility security.
		physical therapy as a follow-up treatment; and	B. A copy of approved policies and procedures and revisions thereto shall be made available to the OLC upon request.
		(2) Will be required to select	C. Each outpatient surgical hospital shall establish a protocol relating to the

	a physical	rights and responsibilities of patients
	therapy provider	based on Joint Commission on
	prior to being	Accreditation of Healthcare
	discharged from	Organizations' Standards for Ambulatory
	the hospital.	Care (2000 Hospital Accreditation
	•	Standards, January 2000). The protocol
	4. Written informed	shall include a process reasonably
	consent of patient	designed to inform patients of their rights
	prior to the initiation	and responsibilities. Patients shall be
	of any procedures.	given a copy of their rights and
	5. Procedures for	responsibilities upon admission.
	housekeeping and	D. If the Governor has declared a
	infection control and	
	prevention.	public health emergency related to the
	6. Disaster	novel coronavirus (COVID-19), each
	preparedness.	outpatient surgical hospital shall allow a
	7. Facility security.	person with a disability who requires
	• •	assistance as a result of such disability to be accompanied by a designated support
	B. A copy of approved policies and procedures and	
	revisions thereto shall be	person at any time during which health care services are provided.
	made available to the OLC	·
	upon request.	1. A designated support person
		shall not be subject to any
	C. Each outpatient	restrictions on visitation adopted
	surgical hospital shall	by such outpatient surgical
	establish a protocol relating to	hospital. However, such
	the rights and responsibilities	designated support person may
	of patients based on Joint	be required to comply with all
	Commission on Accreditation	reasonable requirements of the
	of Healthcare Organizations'	outpatient surgical hospital
	Standards for Ambulatory	adopted to protect the health and
	Care (2000 Hospital Accreditation Standards,	safety of patients and staff of the
	January 2000). The protocol	outpatient surgical hospital.
	shall include a process	2. Every outpatient surgical
	reasonably designed to	hospital shall establish policies
	inform patients of their rights	applicable to designated support
	and responsibilities. Patients	persons and shall:
	shall be given a copy of their	a. Make such policies
	rights and responsibilities	available to the public on a
	upon admission.	website maintained by the
	•	outpatient surgical hospital;
	D. If the Governor has	and
	declared a public health	b. Provide such policies, in
	emergency related to the	writing, to the patient at such
	novel coronavirus (COVID-	time as health care services
	19), each outpatient surgical	are provided.
	hospital shall allow a person	E. Each outpatient surgical hospital
	with a disability who requires assistance as a result of such	shall obtain a criminal history record
		check pursuant to § 32.1-126.02 of the
	disability to be accompanied	Code of Virginia on any compensated
	by a designated support person at any time during	employee not licensed by the Board of
		Pharmacy whose job duties provide

	which health care services	access to controlled substances within
	are provided.	the outpatient surgical hospital pharmacy.
	1. A designated	F. During a declared public health
	support person shall	emergency related to a communicable
	not be subject to any	disease of public health threat, each
	restrictions on	hospital shall establish a protocol to allow
	visitation adopted by	patients to receive visits from a rabbi,
	such outpatient	priest, minister, or clergy of any religious
	surgical hospital.	denomination or sect consistent with
	However, such	guidance from the Centers for Disease
	designated support	Control and Prevention and the Centers
	person may be	for Medicare and Medicaid Services and
	required to comply	subject to compliance with any executive
	with all reasonable	order, order of public health, department
	requirements of the	guidance, or any other applicable federal
	outpatient surgical	or state guidance having the effect of
	hospital adopted to	limiting visitation.
	protect the health and	<u>1. Such protocol may restrict the</u>
	safety of patients and	
	staff of the outpatient	frequency and duration of visits and may require visits to be
	surgical hospital.	
	2. Every outpatient	· · · ·
	surgical hospital shall	technology.
	establish policies	2. Any such protocol may require
	applicable to	<u>the person visiting a patient</u>
	designated support	pursuant to this subdivision to
	persons and shall:	<u>comply with all reasonable</u>
	a. Make such	requirements of the hospital
	policies available	adopted to protect the health and
	to the public on a	safety of the person, patients, and
	website	staff of the hospital.
	maintained by	
	the outpatient	Statutory Authority
	surgical hospital;	
	and	§§ 32.1-12 and 32.1-127 of the Code of
	b. Provide such	Virginia.
	policies, in	INITENIT. The intent of the second
	writing, to the	<b>INTENT:</b> The intent of the new
	patient at such	requirements is to conform 12VAC5-410-
	time as health	10 <i>et seq</i> . to the Code of Virginia.
	care services are	<b>RATIONALE:</b> The rationale for the new
	provided.	
	·	requirements is that Code of Virginia §
		32.1-127(B)(30) now requires the regulations for the licensure of hospitals
	surgical hospital shall obtain a	to include minimum requirements about
	criminal history record check	protocols that allow patients to receive
	pursuant to § 32.1-126.02 of	visits from a rabbi, priest, minister, or
	the Code of Virginia on any	clergy of any religious denomination or
	compensated employee not	sect during public health emergencies
	licensed by the Board of	related to communicable diseases.
	Pharmacy whose job duties	
	provide access to controlled	LIKELY IMPACT: The likely impact of
	substances within the	the new requirements is reduced

outpatient surgical hospital pharmacy.	confusion for regulants about what their obligations are regarding visitation during a public health emergency.
Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.	