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Fast-Track Regulation Agency Background Document

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-410-10 <i>et seq.</i>
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

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

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; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	None
<i>For other state agencies:</i> 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 resulting from the regulatory change.	None
Benefits the regulatory change is designed to produce.	The regulatory change is designed to conform 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.

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

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: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, Office of Licensure and Certification, 9960 Mayland Drive, Suite 401, Henrico, VA 23233; email: regulatorycomment@vdh.virginia.gov; 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 existing 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 and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

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."	<p>CHANGE: The Board is proposing to add the following definition:</p> <p><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></p> <p>INTENT: The intent of the new definition is to conform 12VAC5-410-10 <i>et seq.</i> to the Code of Virginia.</p> <p>RATIONALE: The rationale for the new requirements is that Code of Virginia §</p>

			<p>32.1-127(B)(29) includes a definition for intelligent personal assistant.</p> <p>LIKELY IMPACT: The likely impact of the new requirements is reduced confusion for regulants about what an intelligent personal assistant is.</p>
410-230	N/A	<p>12VAC5-410-230. Patient care management.</p> <p>A. All patients shall be under the care of a member of the medical staff.</p> <p>B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures.</p> <p>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.</p> <p>D. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes.</p> <p>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.</p> <p>2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital</p>	<p>CHANGE: The Board is proposing the following new requirements:</p> <p>12VAC5-410-230. Patient care management.</p> <p>A. All patients shall be under the care of a member of the medical staff.</p> <p>B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures.</p> <p>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.</p> <p>D. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes.</p> <p>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.</p> <p>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.</p>

		<p>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.</p> <p>E. Each hospital shall have a reliable method for identification of each patient, including newborn infants.</p> <p>F. Each hospital shall include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including the patient's medical condition and the number of visitors permitted in the patient's room simultaneously.</p> <p>G. If the Governor has declared a public health emergency related to the novel coronavirus (COVID-19), each hospital shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided.</p> <p>1. In any case in which health care services are provided in an inpatient setting, and the duration of health care services in such inpatient setting is anticipated to last more than 24 hours, the person with a disability may designate more than one designated support person. However, no hospital shall be required to allow more than one designated support person</p>	<p>E. Each hospital shall have a reliable method for identification of each patient, including newborn infants.</p> <p>F. Each hospital shall include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including the patient's medical condition and the number of visitors permitted in the patient's room simultaneously.</p> <p>1. <u>During a declared public health emergency related to a communicable disease of public health threat, each hospital shall establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect 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.</u></p> <p>a. <u>Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology.</u></p> <p>b. <u>Any such protocol may require the person visiting a patient pursuant to subdivision F 1 of this section to comply with all reasonable requirements of the hospital adopted to protect the health and safety of the person, patients, and staff of the hospital.</u></p> <p>G. If the Governor has declared a public health emergency related to the novel coronavirus (COVID-19), each hospital shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided.</p> <p>1. In any case in which health care services are provided in an inpatient setting, and the duration of health care services in such inpatient setting is anticipated to last more than 24 hours,</p>
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		<p>to be present with a person with a disability at any time.</p> <p>2. A designated support person shall not be subject to any restrictions on visitation adopted by such hospital. However, such designated support person may be required to comply with all reasonable requirements of the hospital adopted to protect the health and safety of patients and staff of the hospital.</p> <p>3. Every hospital shall establish policies applicable to designated support persons and shall:</p> <p>a. Make such policies available to the public on a website maintained by the hospital; and</p> <p>b. Provide such policies, in writing, to the patient at such time as health care services are provided.</p> <p>H. Each hospital that is equipped to provide life-sustaining treatment shall develop a policy to determine the medical or ethical appropriateness of proposed medical care, which shall include:</p> <p>1. A process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate;</p> <p>2. Provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and</p>	<p>the person with a disability may designate more than one designated support person. However, no hospital shall be required to allow more than one designated support person to be present with a person with a disability at any time.</p> <p>2. A designated support person shall not be subject to any restrictions on visitation adopted by such hospital. However, such designated support person may be required to comply with all reasonable requirements of the hospital adopted to protect the health and safety of patients and staff of the hospital.</p> <p>3. Every hospital shall establish policies applicable to designated support persons and shall:</p> <p>a. Make such policies available to the public on a website maintained by the hospital; and</p> <p>b. Provide such policies, in writing, to the patient at such time as health care services are provided.</p> <p>H. Each hospital that is equipped to provide life-sustaining treatment shall develop a policy to determine the medical or ethical appropriateness of proposed medical care, which shall include:</p> <p>1. A process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate;</p> <p>2. Provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care of the patient;</p> <p>3. Requirements for a written explanation of the decision of the interdisciplinary medical review committee, which shall be included in the patient's medical record; and</p> <p>4. Provisions to ensure the patient, the patient's agent, or the person authorized to make the patient's medical decisions in accordance with §</p>
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		<p>ethical appropriateness of the proposed health care of the patient;</p> <p>3. Requirements for a written explanation of the decision of the interdisciplinary medical review committee, which shall be included in the patient's medical record; and</p> <p>4. Provisions to ensure the patient, the patient's agent, or the person authorized to make the patient's medical decisions in accordance with § 54.1-2986 of the Code of Virginia is informed of the patient's right to obtain the patient's medical record and the right to obtain an independent medical opinion and afforded reasonable opportunity to participate in the medical review committee meeting.</p> <p>The policy shall not prevent the patient, the patient's agent, or the person authorized to make the patient's medical decisions from obtaining legal counsel to represent the patient or from seeking other legal remedies, including court review, provided that the patient, the patient's agent, person authorized to make the patient's medical decisions, or legal counsel provide written notice to the chief executive officer of the hospital within 14 days of the date of the physician's determination that proposed medical treatment is medically or ethically inappropriate as documented in the patient's medical record.</p> <p>I. Each hospital shall establish a protocol requiring that, before a health care provider arranges for air</p>	<p>54.1-2986 of the Code of Virginia is informed of the patient's right to obtain the patient's medical record and the right to obtain an independent medical opinion and afforded reasonable opportunity to participate in the medical review committee meeting.</p> <p>The policy shall not prevent the patient, the patient's agent, or the person authorized to make the patient's medical decisions from obtaining legal counsel to represent the patient or from seeking other legal remedies, including court review, provided that the patient, the patient's agent, person authorized to make the patient's medical decisions, or legal counsel provide written notice to the chief executive officer of the hospital within 14 days of the date of the physician's determination that proposed medical treatment is medically or ethically inappropriate as documented in the patient's medical record.</p> <p>I. Each hospital shall establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 USC § 1395dd(e)(1), the hospital shall provide the patient or the patient's authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan.</p> <p>J. Each hospital shall provide written information about the patient's ability to request an estimate of the payment amount for which the participant will be responsible pursuant to § 32.1-137.05 of the Code of Virginia. The written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and included on any website maintained by the hospital.</p>
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	<p>medical transportation services for a patient who does not have an emergency medical condition as defined in 42 USC § 1395dd(e)(1), the hospital shall provide the patient or the patient's authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan.</p> <p>J. Each hospital shall provide written information about the patient's ability to request an estimate of the payment amount for which the participant will be responsible pursuant to § 32.1-137.05 of the Code of Virginia. The written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and included on any website maintained by the hospital.</p> <p>K. Each hospital shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that the patient:</p> <ol style="list-style-type: none"> 1. Is expected to require outpatient physical therapy 	<p>K. Each hospital shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that the patient:</p> <ol style="list-style-type: none"> 1. Is expected to require outpatient physical therapy as a follow-up treatment; and 2. Will be required to select a physical therapy provider prior to being discharged from the hospital. <p><u>L. Each hospital shall establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by a patient while receiving inpatient services. Such policies shall ensure protection of health information in accordance with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended.</u></p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of the new requirements is to conform 12VAC5-410-10 <i>et seq.</i> to the Code of Virginia.</p> <p>RATIONALE: The rationale for the new requirements is that Code of Virginia § 32.1-127(B)(29) and (30) now require the regulations for the licensure of hospitals to include minimum requirements about (i) access and use of intelligent personal assistants and (ii) protocols that 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.</p> <p>LIKELY IMPACT: The likely impact of the new requirements is reduced confusion for regulants about what their obligations are regarding intelligent personal assistants and visitation during a public health emergency.</p>
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		<p>as a follow-up treatment; and</p> <p>2. Will be required to select a physical therapy provider prior to being discharged from the hospital.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	
410-280	N/A	<p>12VAC5-410-280. Emergency service.</p> <p>A. Hospitals with an emergency department/service shall have 24-hour staff coverage and shall have at least one physician on call at all times. Hospitals without emergency service shall have written policies governing the handling of emergencies.</p> <p>B. No less than one registered nurse shall be assigned to the emergency service on each shift. Such assignment need not be exclusive of other duties, but must have priority over all other assignments.</p> <p>C. Those hospitals that provide ambulance services shall comply with Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia and 12VAC5-31.</p> <p>D. The hospital shall provide equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs, including radiology and laboratory services and facilities for handling and administering of blood and blood products. Emergency drugs and equipment shall remain accessible in the emergency department at all times.</p> <p>E. Current roster of medical staff members on emergency call, including alternates and medical</p>	<p>CHANGE: The Board is proposing the following new requirements:</p> <p>12VAC5-410-280. Emergency service.</p> <p>A. Hospitals with an emergency department/service shall have 24-hour staff coverage and shall have at least one physician on call at all times. Hospitals without emergency service shall have written policies governing the handling of emergencies.</p> <p>B. No less than one registered nurse shall be assigned to the emergency service on each shift. Such assignment need not be exclusive of other duties, but must have priority over all other assignments.</p> <p>C. Those hospitals that provide ambulance services shall comply with Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia and 12VAC5-31.</p> <p>D. The hospital shall provide equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs, including radiology and laboratory services and facilities for handling and administering of blood and blood products. Emergency drugs and equipment shall remain accessible in the emergency department at all times.</p> <p>E. Current roster of medical staff members on emergency call, including alternates and medical specialists or consultants shall be posted in the emergency department.</p> <p>F. Hospitals shall make special training available, as required, for emergency department personnel.</p> <p>G. Toxicology reference material and poison antidote information shall be available along with telephone numbers of the nearest poison control centers.</p> <p>H. Each emergency department shall post notice of the existence of a human</p>

	<p>specialists or consultants shall be posted in the emergency department.</p> <p>F. Hospitals shall make special training available, as required, for emergency department personnel.</p> <p>G. Toxicology reference material and poison antidote information shall be available along with telephone numbers of the nearest poison control centers.</p> <p>H. Each emergency department shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to gain assistance or report crimes. This notice shall be in a place readily visible and accessible to the public, such as the patient admitting area or public or patient restrooms. The notice shall meet the requirements of § 40.1-11.3 C of the Code of Virginia.</p> <p>I. Every hospital with an emergency department shall establish protocols to ensure that security personnel of the emergency department receive training appropriate to the populations served by the emergency department. This training may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis.</p> <p>J. Each hospital with an emergency department shall establish a protocol for treatment of individuals experiencing a substance use-related emergency to include the completion of</p>	<p>trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to gain assistance or report crimes. This notice shall be in a place readily visible and accessible to the public, such as the patient admitting area or public or patient restrooms. The notice shall meet the requirements of § 40.1-11.3 C of the Code of Virginia.</p> <p>I. Every hospital with an emergency department shall establish protocols to ensure that security personnel of the emergency department receive training appropriate to the populations served by the emergency department. This training may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis.</p> <p>J. Each hospital with an emergency department shall establish a protocol for <u>the treatment and discharge</u> of individuals experiencing a substance use-related emergency, to <u>which shall include the completion of appropriate assessments or screenings provisions for:</u></p> <ol style="list-style-type: none"> 1. <u>Appropriate screening and assessment of individuals experiencing substance use-related emergencies</u> to identify medical interventions necessary for the treatment of the individual in the emergency department. The protocol may also include a process for patients who are discharged directly from the emergency department for the recommendation of; <u>and</u> 2. <u>Recommendations for follow-up care following discharge for any patient identified as having a substance use disorder, depression, or mental health disorder, as appropriate, that may include for patients who have been treated for substance use-related emergencies, including opioid overdose, or other high-risk patients:</u> <ol style="list-style-type: none"> 1. Instructions for distribution a. <u>The dispensing of naloxone or other opioid antagonist used for</u>
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		<p>appropriate assessments or screenings to identify medical interventions necessary for the treatment of the individual in the emergency department. The protocol may also include a process for patients who are discharged directly from the emergency department for the recommendation of follow-up care following discharge for any identified substance use disorder, depression, or mental health disorder, as appropriate, that may include:</p> <ol style="list-style-type: none"> 1. Instructions for distribution of naloxone; 2. Referrals to peer recovery specialists and community-based providers of behavioral health services; or 3. Referrals for pharmacotherapy for treatment of drug or alcohol dependence or mental health diagnoses. <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p><u>overdose reversal pursuant to subsection X of § 54.1-3408 at discharge; or</u></p> <p><u>b. Issuance of a prescription for and information about accessing naloxone or other opioid antagonist used for overdose reversal, including information about accessing naloxone or other opioid antagonist used for overdose reversal at a community pharmacy, including any outpatient pharmacy operated by the hospital, or through a community organization or pharmacy that may dispense naloxone or other opioid antagonist used for overdose reversal without a prescription pursuant to a statewide standing order.</u></p> <p>2. Referrals Such protocols may also provide for referrals of individuals experiencing a substance use-related emergency to peer recovery specialists and community-based providers of behavioral health services; <u>or to providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses.</u></p> <p>3. Referrals for pharmacotherapy for treatment of drug or alcohol dependence or mental health diagnoses.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of the new requirements is to conform 12VAC5-410-10 <i>et seq.</i> to the Code of Virginia.</p> <p>RATIONALE: 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.</p> <p>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.</p>
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<p>410-1170</p>	<p>N/A</p>	<p>12VAC5-410-1170. Policy and procedures manual.</p> <p>A. Each outpatient surgical hospital shall develop a policy and procedures manual that shall include provisions covering the following items:</p> <ol style="list-style-type: none"> 1. The types of emergency and elective procedures that may be performed in the facility. 2. Types of anesthesia that may be used. 3. Admissions and discharges, including: <ol style="list-style-type: none"> 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 outpatient physical therapy as a follow-up treatment after discharge is informed that the patient: <ol style="list-style-type: none"> (1) Is expected to require outpatient physical therapy as a follow-up treatment; and (2) Will be required to select 	<p>CHANGE: The Board is proposing the following new requirements:</p> <p>12VAC5-410-1170. Policy and procedures manual.</p> <p>A. Each outpatient surgical hospital shall develop a policy and procedures manual that shall include provisions covering the following items:</p> <ol style="list-style-type: none"> 1. The types of emergency and elective procedures that may be performed in the facility. 2. Types of anesthesia that may be used. 3. Admissions and discharges, including: <ol style="list-style-type: none"> 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 outpatient physical therapy as a follow-up treatment after discharge is informed that the patient: <ol style="list-style-type: none"> (1) Is expected to require outpatient physical therapy as a follow-up treatment; and (2) Will be required to select a physical therapy provider prior to being discharged from the hospital. 4. Written informed consent of patient prior to the initiation of any procedures. 5. Procedures for housekeeping and infection control and prevention. 6. Disaster preparedness. 7. Facility security. <p>B. A copy of approved policies and procedures and revisions thereto shall be made available to the OLC upon request.</p> <p>C. Each outpatient surgical hospital shall establish a protocol relating to the</p>
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		<p>a physical therapy provider prior to being discharged from the hospital.</p> <p>4. Written informed consent of patient prior to the initiation of any procedures.</p> <p>5. Procedures for housekeeping and infection control and prevention.</p> <p>6. Disaster preparedness.</p> <p>7. Facility security.</p> <p>B. A copy of approved policies and procedures and revisions thereto shall be made available to the OLC upon request.</p> <p>C. Each outpatient surgical hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' Standards for Ambulatory Care (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.</p> <p>D. If the Governor has declared a public health emergency related to the novel coronavirus (COVID-19), each outpatient surgical hospital shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during</p>	<p>rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' Standards for Ambulatory Care (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.</p> <p>D. If the Governor has declared a public health emergency related to the novel coronavirus (COVID-19), each outpatient surgical hospital shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided.</p> <p>1. A designated support person shall not be subject to any restrictions on visitation adopted by such outpatient surgical hospital. However, such designated support person may be required to comply with all reasonable requirements of the outpatient surgical hospital adopted to protect the health and safety of patients and staff of the outpatient surgical hospital.</p> <p>2. Every outpatient surgical hospital shall establish policies applicable to designated support persons and shall:</p> <p>a. Make such policies available to the public on a website maintained by the outpatient surgical hospital; and</p> <p>b. Provide such policies, in writing, to the patient at such time as health care services are provided.</p> <p>E. Each outpatient surgical hospital shall obtain a criminal history record check pursuant to § 32.1-126.02 of the Code of Virginia on any compensated employee not licensed by the Board of Pharmacy whose job duties provide</p>
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	<p>which health care services are provided.</p> <ol style="list-style-type: none"> 1. A designated support person shall not be subject to any restrictions on visitation adopted by such outpatient surgical hospital. However, such designated support person may be required to comply with all reasonable requirements of the outpatient surgical hospital adopted to protect the health and safety of patients and staff of the outpatient surgical hospital. 2. Every outpatient surgical hospital shall establish policies applicable to designated support persons and shall: <ol style="list-style-type: none"> a. Make such policies available to the public on a website maintained by the outpatient surgical hospital; and b. Provide such policies, in writing, to the patient at such time as health care services are provided. <p>E. Each outpatient surgical hospital shall obtain a criminal history record check pursuant to § 32.1-126.02 of the Code of Virginia on any compensated employee not licensed by the Board of Pharmacy whose job duties provide access to controlled substances within the</p>	<p>access to controlled substances within the outpatient surgical hospital pharmacy.</p> <p><u>F. During a declared public health emergency related to a communicable disease of public health threat, each hospital shall establish a protocol to allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or sect 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.</u></p> <ol style="list-style-type: none"> <u>1. Such protocol may restrict the frequency and duration of visits and may require visits to be conducted virtually using interactive audio or video technology.</u> <u>2. Any such protocol may require the person visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital adopted to protect the health and safety of the person, patients, and staff of the hospital.</u> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of the new requirements is to conform 12VAC5-410-10 <i>et seq.</i> to the Code of Virginia.</p> <p>RATIONALE: The rationale for the new requirements is that Code of Virginia § 32.1-127(B)(30) now requires the regulations for the licensure of hospitals to include minimum requirements about protocols that 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.</p> <p>LIKELY IMPACT: The likely impact of the new requirements is reduced</p>
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		<p>outpatient surgical hospital pharmacy.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>confusion for regulants about what their obligations are regarding visitation during a public health emergency.</p>
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