



2014

FINAL REPORT

**Legislation of Interest to Virginia
Hospitals and Health Systems**



**VIRGINIA HOSPITAL
& HEALTHCARE
ASSOCIATION**

An alliance of hospitals and health delivery systems

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The 2014 *Final Report: Legislation of Interest to Virginia Hospitals and Health Systems* is available in PDF format for members only on the VHHA web site at <http://www.vhha.com>.

Foreword

VHHA 2013-2014 Board of Directors

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This *Final Report* summarizes 2014 General Assembly action of particular interest to hospitals and health systems. The report is organized by subject. Under each subject heading, the following are included:

- House bills (HB) followed by Senate bills (SB) enacted (passed) this year are listed numerically and summarized. Generally, legislative enactments become effective July 1, 2014.
- Summaries of significant failed bills are listed. While VHHA tracked many bills that eventually failed, we include here only bills we followed closely because of their potential impact on hospitals and health systems and their implications for health care. Some of these proposals will be studied prior to the 2015 session, and some of them may be introduced again in 2015.
- House and Senate joint resolutions (HJR or SJR) authorizing study by various government entities of, or other action on, health-related issues are listed. Future health-related legislative proposals are likely to arise from these activities.

The *Final Report* also includes information on changes to the 2014-2016 state budget. In addition to authorizing state spending, the budget may authorize state agency action and studies with fiscal impact.

The explanations of legislation are brief, intended only to highlight major features of measures or changes in existing law. The full text and history of any measure referred to in this report may be found through the Legislative Information System on the General Assembly web site at <http://legis.state.va.us> or VHHA staff will provide this information upon request.

This *Final Report* was prepared by the Virginia Hospital & Healthcare Association Board of Directors with the assistance of the Virginia Hospital & Healthcare Association staff.

Please share the *Final Report* with affected departments within your hospital or health system.

BILLS & RESOLUTIONS

House bills followed by Senate bills passed this year are listed below numerically within categories and summarized. Generally, legislative enactments become effective July 1, 2014. When a different effective date applies, an appropriate notation appears.

Also included are summaries of significant failed bills followed closely by VHHA because of their potential impact on hospitals and health systems and their implications for health care. Some of these proposals will be studied before the 2015 General Assembly Session and some may be introduced again in 2015.

Finally, the list includes summaries of House and Senate joint resolutions (designated as "HJR" or "SJR") authorizing study by various government entities of, or other action on, health-related issues.

The full text and history of any measure referred to in this report may be found through the Legislative Information System on the General Assembly web site at <http://legis.state.va.us> or VHHA staff will provide this information upon request.

Behavioral Health & Civil Commitment

HB 206 (Hope) Higher education; mental health resources.

Requires each four-year public institution of higher education in the Commonwealth to create and feature on its website a page with information dedicated to the mental health resources available to students at the institution. (Effective July 1, 2015.) *Passed*

HB 293 (R.B. Bell) Temporary detention in state facilities.

Authorizes detention of an individual for whom a temporary detention order is issued in a state facility unless the state facility or an employee or designee of the community services board can identify an alternative facility that is able and willing to provide temporary detention. Requires a state facility to admit an individual who meets the criteria for temporary detention unless an alternative facility has agreed to accept the individual. *Passed*

HB 323 (O'Bannon) Temporary detention order; transportation.

Authorizes a magistrate to specify in a temporary detention order any willing law-enforcement agency that has agreed to provide transportation as the agency authorized to execute a temporary detention order and transport the person who is the subject of the order. *Passed*

HB 478 (Villanueva) Emergency custody orders; duration, extension.

Extends the time that a person may be held pursuant to an emergency custody order from four hours, with a possible two-hour extension, to eight hours. The law-enforcement agency that takes the person into emergency custody or executes an emergency custody order must notify the local community services board as soon as practicable. Directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and make recommendations designed to reduce the burden on law-enforcement resources. *Passed*

HB 540 (Hope) Licensure of private behavioral health providers.

Clarifies provisions governing issuance of full and provisional licenses to private providers by the Department of Behavioral Health and Developmental Services. A provisional license may be issued any time a provider is temporarily unable to comply with all licensing standards. Clarifies situations in which certain sanctions may be imposed upon a provider. *Passed*

HB 574 (Yost); SB 439 (Barker) Temporary detention duration; mandatory outpatient treatment orders.

Extends the period that a person may be held pursuant to a temporary detention order from 48 hours to 72 hours. Requires the community services board monitoring a person who is the subject of a mandatory outpatient treatment order to acknowledge receipt of the order within five business days. If the person's case is transferred to another jurisdiction, the community services board serving that jurisdiction shall acknowledge the transfer and receipt of the order within five business days. *Passed*

HB 743 (McClellan); SB 576 (McEachin) Mental health; possession of firearms.

Specifies time within which judge or special justice must notify clerk and clerk must report judicial action prohibiting an individual from possessing firearms. *Passed*

HB 1172 (R.B. Bell) Temporary detention; procedure for transferring person.

Establishes procedure for transferring custody of a person who is the subject of a temporary detention order from one detention facility to another. *Passed*

HB 1216 (R.B. Bell); SB 261 (Deeds) Qualifications and training of evaluators.

Directs the Department of Behavioral Health and Developmental Services to review requirements for qualifications, training, and oversight of individuals designated by community services boards to evaluate individuals subject to emergency custody orders.

Passed

HB 1222 (Watts) First responders; mental health education and training.

Directs the Secretary of Public Safety and the Secretary of Health and Human Resources to encourage dissemination of information to law-enforcement personnel, other first responders, hospital emergency department personnel, school personnel, and other interested parties about specialized training in evidence-based strategies to prevent and minimize mental health crises. *Passed*

HB 1232 (Cline) Psychiatric bed registry.

Directs the Department of Behavioral Health and Developmental Services to establish a web-based acute psychiatric bed registry to provide real-time information on the availability of beds in public and private psychiatric facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. (Effective April 7, 2014) *Passed*

SB 260 (Deeds) Emergency custody and temporary detention; psychiatric bed registry; duration of emergency custody.

Extends the time that a person may be held pursuant to an emergency custody order from four hours, with a possible two-hour extension, to eight hours. An individual for whom a temporary detention order is issued shall be detained in a state facility unless the state facility or the community services board identifies an alternative facility that is able and willing to provide temporary detention. A state facility must admit an individual who meets the criteria for temporary detention unless an alternative facility has agreed to accept the individual. The state facility and the local community services board may continue to look for an alternative facility for an additional four hours (but this four-hour extension is available only until June 30, 2018). Directs the Department of Behavioral Health and Developmental Services to establish an acute psychiatric bed registry that will provide real-time information on the availability of beds in public and private psychiatric facilities and residential crisis stabilization units for individuals who meet the criteria for temporary detention. The Department of Behavioral Health and Developmental Services shall report annually on the implementation of the provisions of the act. Finally, the act directs the Governor's Mental Health Task Force to study issues associated with law enforcement's involvement in the admission process and make recommendations designed to reduce the burden on law-enforcement resources. *Passed*

SB 627 (Newman) Transfer of training center residents.

Requires the Department of Behavioral Health and Developmental Services to provide a training center resident who is to be transferred to another training center or to community-based care with written certification that (i) the receiving program provides a quality of care that is comparable to that provided in the resident's current training center regarding medical, health, developmental, and behavioral care and safety and (ii) all available placement options have been disclosed to the resident. *Passed*

SJR 47 (Deeds) Mental health services; comprehensive study.

Establishes a joint subcommittee to study mental health services in the Commonwealth in the 21st century. In conducting its study, the joint subcommittee shall (i) review and coordinate with the work of the Governor's Task Force on Improving Mental Health Services and Crisis Response; (ii) review state laws governing provision of mental health services and involuntary commitment; (iii) assess publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities; (iv) identify gaps in services; (v) examine and incorporate the objectives of House Joint Resolution 240 (1996) and House Joint Resolution 225 (1998) into its study; (vi) review and consider the report *The Behavioral Health Services Study Commission: A Study of Virginia's Publicly Funded Behavioral Health Services in the 21st Century*; and (vii) recommend statutory or regulatory changes needed to improve access to and quality of services. In reviewing the need for facility beds at the community level, the joint subcommittee shall consider whether the current fiscal incentives for expanding regional jail capacity should be eliminated and replaced with a new incentive for construction, renovation, or enlargement of community mental health facilities or programs, which may be co-located with selected jails on a regional basis. The joint subcommittee shall report findings to the Governor and the 2018 Regular Session of the General Assembly, with an interim report by December 1, 2015. *Passed*

Disease & Injury Prevention & Management

HB 134 (Cole) Self-checking blood glucose levels on school property.

Requires local school boards to permit students who are diagnosed with diabetes to carry with them and use related supplies and self-check their blood glucose levels on school buses, on school property, and at school-sponsored activities. *Passed*

HB 305 (O'Bannon) Reimbursement for immunization.

Requires the Department of Health to provide certain vaccines for children free of charge if a child is eligible for the Vaccines for Children Program or the child is eligible for Medicare, Medicaid, CHIP, or CHAMPUS. In cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the Department shall seek reimbursement for all allowable costs associated with the provision of the vaccine. *Passed*

HB 334 (R.B. Bell); SB 421 (McDougle) Multidisciplinary child sexual abuse response teams.

Requires every attorney for the Commonwealth to establish a multidisciplinary child sexual abuse response team to conduct regular reviews of cases involving felony sex offenses against children. Such teams may also review other reports of child abuse and neglect or sex offenses involving children in the jurisdiction. (Effective July 1, 2015) *Passed*

HB 387 (Comstock); SB 183 (McWaters) Newborn screening for critical congenital heart defects.

Requires every hospital in the Commonwealth having a newborn nursery to perform a critical congenital heart defect screening test on every newborn in its care when the child is at least 24 hours old but no more than 48 hours old or, in cases in which the infant is discharged prior to reaching 24 hours of age, prior to discharging the infant. *Passed*

HB 1031 (Orrock) Childhood immunization requirements.

Updates minimum requirements for immunizations for children. *Passed*

HJR 68 (Hodges) Study of viral hepatitis.

Directs the Joint Commission on Health Care to identify resources available and those needed for the treatment and prevention of viral hepatitis. *Passed*

Government Operations Affecting Health Care

HB 628 (Kilgore) Hospital authorities; localities' powers.

Establishes that cities and counties shall have the same powers with regard to hospital authorities. (Effective April 3, 2014) *Passed*

HB 680 (Brink); SB 60 (Puller) Joint Commission on Health Care.

Extends sunset date for Joint Commission on Health Care to July 1, 2018. *Passed*

HB 924 (O'Bannon) Chief Medical Examiner powers and duties.

Clarifies the powers and duties of the Office of the Chief Medical Examiner, the Chief Medical Examiner, Assistant Chief Medical Examiners, and local medical examiners related to investigations of deaths. *Passed*

HB 1053 (Miller) State Inspector General powers and duties.

Specifically authorizes State Inspector General, in any review of a state agency, nonstate agency, or independent contractor of a state agency to assess the effectiveness, efficiency, or economy of the entity's programs. Exempts from mandatory disclosure under the Virginia Freedom of Information Act the investigative notes, correspondence and information furnished in confidence and records otherwise exempted by law that are provided to or produced by or for internal auditors appointed by the head of a state agency or the board of visitors of a public institution of higher education. *Passed*

HB 1087 (Leftwich); SB 82 (Ruff) Alzheimer's Disease and Related Disorders Commission.

Extends the sunset provision for the Alzheimer's Disease and Related Disorders Commission from July 1, 2014, to July 1, 2017. *Passed*

SB 77 (Martin) Disposition of bodies; absence of next of kin; prerequisites for cremation.

Authorizes any person who is 18 years of age or older who can provide identification of the deceased and is willing to pay the costs of disposition of the remains to make arrangements for such disposition and to authorize cremation in the absence of next of kin, a person designated to make arrangements for disposition of a decedent's remains, an agent named in an advance directive, or a guardian, or upon the failure or refusal of such next of kin, designated person, agent, or guardian to accept responsibility for the disposition of the decedent's remains. A funeral service establishment that makes such arrangements shall be immune from civil liability absent bad faith or malicious intent. *Passed*

SB 304 (Alexander) Disposition of unclaimed bodies.

Clarifies legal authority to remove and dispose of unclaimed bodies, maintains responsibility of local law enforcement to assist in identifying the decedent and next of kin, establishes process for issuance of court order authorizing transfer of unclaimed body to funeral home for disposition with expenses of such disposition paid by local government, and protects hospitals and others from liability exposure for claims related to acceptance and disposition of an unclaimed body in compliance with the law. (Effective March 7, 2014) *Passed*

HB 730 (Lingamfelter); SB 381 Secretariats of Public Safety and Homeland Security and of Veterans and Defense Affairs.

Renames the Secretary of Public Safety as the Secretary of Public Safety and Homeland Security and reassigns duties currently assigned to the Secretary of Veterans Affairs and Homeland Security relating to homeland security. Renames the Secretary of Veterans Affairs and Homeland Security as the Secretary of Veterans and Defense Affairs. Incorporates JLARC recommendations relating to improvements to Virginia's homeland security activities. (Effective April 2, 2014) *Passed*

SB 627 (Newman) Transfer of training center residents.

Requires the Department of Behavioral Health and Developmental Services to provide a training center resident who is to be transferred to another training center or to community-based care with written certification that (i) the receiving program provides a quality of care that is comparable to that provided in the resident's current training center regarding medical, health, developmental, and behavioral care and safety and (ii) all available placement options have been disclosed to the resident. *Passed*

HJR 96 (LeMunyon) Virginia Freedom of Information Act exemptions.

Directs the Virginia Freedom of Information Advisory Council to study all exemptions contained in the Virginia Freedom of Information Act to determine their continued applicability or appropriateness. *Passed*

Health Care Decision-Making

SB 575 (Barker) Advance Health Care Directive Registry; submission of documents.

Authorizes the legal representative or designee of an individual who has executed a health care power of attorney, advance directive, or declaration of an anatomical gift to submit such documents to the Advance Health Care Directive Registry. *Passed*

HJR 190 (Landes) Supported decision-making by individuals with intellectual and developmental disabilities.

Requests the Secretary of Health and Human Resources to examine the use of supported decision-making for individuals with intellectual and developmental disabilities in the Commonwealth, compare the Commonwealth's policies and practices related to supported decision-making and informed choice to such policies and practices used in other jurisdictions, and recommend strategies to improve the use of supported decision-making in the Commonwealth. *Passed*

Health Facility Regulation

HB 202 (O'Bannon) Assisted living facilities; credit references.

Updates requirements relating to applications for licensure as an assisted living facility, replacing the requirement for at least one "letter of credit" with the requirement for at least one "credit reference." *Passed*

HB 240 (O'Bannon); SB 572 (Barker) Long-Term Care Ombudsman's access to records.

Grants the Office of the State Long-Term Care Ombudsman access to facilities, individuals receiving services, and the records of such individuals in licensed assisted living facilities, licensed adult day care centers, home care organizations, hospice facilities, certified nursing facilities and nursing homes, hospitals and others providing behavioral health services, state hospitals operated by the Department of Behavioral Health and Developmental Services, and providers of services by an area agency on aging or any private nonprofit or proprietary agency whenever each entity has the consent of the client, patient, or individual receiving services or his legal representative. If an individual receiving services is unable to consent to the review of his medical and social records and has no legal representative, and access to the records is necessary to investigate a complaint, access shall be granted to the extent necessary to conduct the investigation. Access also shall be granted if a legal representative of the individual receiving services refuses to give consent and the entity has reasonable cause to believe that the legal representative is not acting in the best interests of the individual receiving services. There is no right of access to communications privileged under §8.01-581.17. *Passed*

HB 387 (Comstock); SB 183 (McWaters) Newborn screening for critical congenital heart defects.

Requires every hospital in the Commonwealth having a newborn nursery to perform a critical congenital heart defect screening test on every newborn in its care when the child is at least 24 hours old but no more than 48 hours old or, in cases in which the infant is discharged prior to reaching 24 hours of age, prior to discharging the infant. *Passed*

HB 391 (Stolle) References to national accrediting organizations.

Replaces outdated references to the Joint Commission on Accreditation of Healthcare Organizations with references to any national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to ensure compliance with Medicare conditions of participation. *Passed*

HB 450 (R.B. Bell) Employment background checks.

Prohibits employment of any individual in a position that involves direct contact with a patient of, or person receiving services from, a nursing home, home health organization, hospice or assisted living facility until the results of a criminal history background check have been received, unless the person works under the direct supervision of a person for whom a background check has been performed. *Passed*

HB 476 (Head) Home care organizations; inspections.

Requires state agencies that inspect home care organizations to coordinate inspections both among subdivisions of the agency and with other agencies and to accept equivalent inspections performed by other agencies or subdivisions of agencies in lieu of performing their own inspections to the extent possible. *Passed*

HB 540 (Hope) Licensure of private behavioral health providers.

Clarifies provisions governing issuance of full and provisional licenses to private providers by the Department of Behavioral Health and Developmental Services. A provisional license may be issued any time a provider is temporarily unable to comply with all licensing standards. Clarifies situations in which certain sanctions may be imposed upon a provider. *Passed*

HB 541 (O'Bannon) Determination of death.

Removes the requirement for a second physician to attest to a declaration of death by a physician who is a specialist in the field of neurology, neurosurgery, electroencephalography, or critical care medicine. *Passed*

HB 580 (Stolle) Active duty military health care providers; licensure exemption.

Establishes that the exemption from licensure requirements for active duty military health care providers applies to active duty health care providers providing health services at any public or private health care facilities in accordance with their official military orders. (Effective February 20, 2014) *Passed*

HB 661 (R.B. Bell) Falsifying patient records.

Increases from one year to three years the statute of limitations on prosecutions for the misdemeanor of falsifying patient records with the intent to defraud. *Passed*

SB 77 (Martin) Disposition of bodies; absence of next of kin; prerequisites for cremation.

Authorizes any person who is 18 years of age or older who can provide identification of the deceased and is willing to pay the costs of disposition of the remains to make arrangements for such disposition and to authorize cremation in the absence of next of kin, a person designated to make arrangements for disposition of a decedent's remains, an agent named in an advance directive, or a guardian, or upon the failure or refusal of such next of kin, designated person, agent, or guardian to accept responsibility for the disposition of the decedent's remains. A funeral service establishment that makes such arrangements shall be immune from civil liability absent bad faith or malicious intent. *Passed*

SB 304 (Alexander) Disposition of unclaimed bodies.

Clarifies legal authority to remove and dispose of unclaimed bodies, maintains responsibility of local law enforcement to assist in identifying the decedent and next of kin, establishes process for issuance of court order authorizing transfer of unclaimed body to funeral home for disposition with expenses of such disposition paid by local government, and protects hospitals and others from liability exposure for claims related to acceptance and disposition of an unclaimed body in compliance with the law. (Effective March 7, 2014) *Passed*

Health Professions & Drug Control Act

HB 500 (Yost) Audiology practice.

Adds limited cerumen management to the definition of the practice of audiology. *Passed*

HB 505 (Hodges) Dextromethorphan Distribution Act.

Prohibits pharmacies and distributors from knowingly or intentionally selling or distributing a product containing dextromethorphan to a minor. Pharmacies and retail distributors shall not sell or distribute a product containing dextromethorphan unless the purchaser shows proof of age or appears to be at least 25 years old. *Passed*

HB 539 (Hodges) Prescription Monitoring Program.

Authorizes drug dispensers who are authorized to access the information in the Prescription Monitoring Program to delegate this authority to certain health care professionals employed at the same facility and under their direct supervision. Individuals to whom such authority may be delegated include health care professionals licensed, registered, or certified by a health regulatory board in another state and employed at the same facility and under direct supervision. *Passed*

HB 580 (Stolle) Active duty military health care providers; licensure exemption.

Establishes that the exemption from licensure requirements for active duty military health care providers applies to active duty health care providers providing health services at any public or private health care facilities in accordance with their official military orders. (Effective February 20, 2014) *Passed*

HB 612 (Robinson); SB 330 (Howell) Genetic counseling; licensure.

Requires licensure for practice of genetic counseling. *Passed*

HB 764 (Kory) Assistant speech-language pathologists.

Permits a person to practice as an assistant speech-language pathologist upon meeting the requirements prescribed by the Board of Audiology and Speech-Language Pathology. *Passed*

HB 855 (Garrett); SB 463 (Barker) Reinstatement of practitioner license.

Imposes on any applicant for reinstatement of a revoked certificate, registration, or license the burden of proof to show to the appropriate health regulatory board by clear and convincing evidence that he is competent to practice. *Passed*

HB 874 (Yost) Designation and reporting of drugs of concern.

Authorizes the Board of Pharmacy to identify "drugs of concern" and requires such drugs to be reported to the Prescription Monitoring Program. *Passed*

HB 893 (Stolle) Anatomic pathology services; fees.

Prohibits practitioners licensed by the Board of Medicine from charging a fee for anatomic pathology services performed by a person other than the practitioner or a person not under the direct supervision of the practitioner that is greater than the fee paid by the practitioner for the performance of such service. Practitioner may charge a fee for specimen collection and transportation consistent with CPT codes and disclosed to patient. *Passed*

HB 1134 (O'Bannon) Physician assistants; practice agreements.

Updates terminology related to practice agreements for physician assistants and adds physician assistants to the definition of "health care provider" for the purposes of medical malpractice. *Passed*

HB 1235 (Peace); SB 536 (Martin) Implantable medical devices distributed by physician-owned distributorships.

Directs the Department of Health Professions to consider any issues related to the use of implantable medical devices distributed by medical device distributors in which a physician has an ownership interest and to report to the Governor and the General Assembly by November 1, 2014. *Passed*

HB 1247 (Filler-Corn) Spouses of military service members; practitioner licenses.

Reduces from 30 to 20 days the allowable application review period after which a regulatory board within the Department of Health Professions must issue a temporary license to certain military spouses while the board completes its review. *Passed*

HB 1249 (Hodges); SB 294 (Puckett) Prescription Monitoring Program; provider registration.

Requires prescribers to register with the Prescription Monitoring Program upon application for licensure or renewal of a license. Prescribers must request information from the Director of the Department of Health Professions to determine what, if any, other covered substances are currently being prescribed to any patient for whom the prescriber is initiating a new course of treatment that includes benzodiazepine or an opiate when such course of treatment is anticipated to last more than 90 consecutive days and for which a treatment agreement is entered into, except when the prescriber's course of treatment arises from pain management relating to dialysis or cancer treatment or includes benzodiazepines or opiates that have a low potential for abuse by human patients. (Effective July 1, 2015) *Passed*

SB 203 (Carrico) Occupational therapist licensure applicants.

Permits a person who has graduated from a duly accredited educational program in occupational therapy to practice under the title "Occupational Therapist, License Applicant" or a person who has graduated from a duly accredited occupational therapy assistant education program to practice under the title "Occupational Therapy Assistant, License Applicant" until he has received a failing score on any examination required by the Board of Occupational Therapy or until six months have elapsed from the date of graduation, whichever occurs sooner. *Passed*

SB 328 (Barker) Surgical technologists and surgical assistants; title protection.

Prohibits any person from using or assuming the title "registered surgical technologist" or "registered surgical assistant" unless registered with the Board of Medicine. Requires the Board to register applicants as registered surgical technologists or registered surgical assistants. *Passed*

Insurance & Managed Care

HB 33 (Habeeb); SB 484 (Stuart) Pediatric oral health benefits.

Specifies that the ACA requirement for inclusion of minimum essential pediatric oral health benefits are satisfied for health plans in the small group and individual markets outside an exchange on or after January 1, 2015, if the carrier has obtained reasonable assurance that the benefits are provided to the plan purchaser. *Passed*

HB 108 (Ware) Health insurance contracts with pharmacy providers.

Requires that any contract between a carrier and its intermediary pursuant to which the intermediary has the right or obligation to conduct audits of participating pharmacy providers and any provider contract between a carrier and a participating pharmacy provider or its contracting agent pursuant to which the carrier has the right or obligation to conduct audits of participating pharmacy providers must contain provisions that prohibit the carrier or intermediary, absent fraud, from recouping amounts related to specified acts or claims. *Passed*

HB 308 (Dance); SB 201 (Puller) Prescription drug formularies; notices.

Requires any health carrier that applies a formulary to its prescription drug benefits to provide to each affected group health plan policyholder or contract holder or each affected covered individual at least 30 days' prior written notice of a modification to a formulary that increases cost-sharing. *Passed*

HB 586 (O'Bannon); SB 416 (Hanger) Family Access to Medical Insurance Security Plan; eligibility.

Eliminates the requirement that an individual under the age of 19 must have been without health insurance for at least four months or must meet the requirements set forth in the Virginia Plan for Title XXI of the Social Security Act (Children's Health Insurance Program) to be eligible for assistance under the Family Access to Medical Insurance Security Plan. *Passed*

HB 631 (Kilgore) Insurance contracts; valuation of reserve.

Requires insurers to use a principle-based valuation of reserve for accident and health contracts and to use valuation manual adopted by the National Association of Insurance Commissioners. (Effective January 1, 2015) *Passed*

HB 765 (Ware); SB 360 (McWaters) Health insurance statutory definitions.

Updates references to federal programs in the definitions of "health care policy," "group health benefit plan," and "health plan." *Passed*

HB 1005 (Byron) Health insurance conversion coverage.

Repeals provisions relating to the conversion of coverage under a group policy to an individual policy. Certain mandated offers do not apply to health care plans, contracts, or policies issued in the individual or small group market or to a qualified health plan offered in the Commonwealth by a health carrier through a health benefit exchange. *Passed*

HB 1043 (Byron); SB 542 (Martin) Health benefit exchanges; regulation of navigators.

Requires navigators, on and after September 1, 2014, to be registered with the State Corporation Commission, in addition to being certified by the federal Department of Health and Human Services (HHS). Prohibits health carriers from compensating navigators if prohibited by federal law. The Commission shall register a navigator if his character and general fitness warrant belief that he will act fairly, in the public interest, and in accordance with law. The Commission may determine whether the federal standards and qualifications for navigators are sufficient to ensure that navigators can perform their required duties. *Passed*

HB 1166 (Ingram) Group accident and sickness insurance; blanket policies.

Authorizes the delivery of blanket accident and sickness insurance policies, which are limited accident and sickness insurance defined as an "excepted benefit" under §38.2-3431 and that provides coverage for specified circumstances and specific classes of persons described in a policy issued to a master policyholder. Blanket insurance need not individually name the persons covered. Sets out criteria for issuance of blanket accident and sickness insurance policies. *Passed*

HB 1176 (Ware) Notice of increase in premium or deductible.

Requires health insurers, including health maintenance organizations and corporations providing accident and sickness subscription contracts, to provide written notice of intent to increase the annual premium or deductible in conjunction with the proposed renewal of coverage under any individual health insurance policy, contract, or plan issued on or after January 1, 2015. Currently, notices of premium increases are required to be given when a premium increase exceeds 35 percent. *Passed*

Long-Term Care & Aging

HB 202 (O'Bannon) Assisted living facilities; credit references.

Updates requirements relating to applications for licensure as an assisted living facility, replacing the requirement for at least one "letter of credit" with the requirement for at least one "credit reference." *Passed*

HB 240 (O'Bannon); SB 572 (Barker) Long-Term Care Ombudsman's access to records.

Grants the Office of the State Long-Term Care Ombudsman access to facilities, individuals receiving services, and the records of such individuals in licensed assisted living facilities, licensed adult day care centers, home care organizations, hospice facilities, certified nursing facilities and nursing homes, hospitals and others providing behavioral health services, state hospitals operated by the Department of Behavioral Health and Developmental Services, and providers of services by an area agency on aging or any private nonprofit or proprietary agency whenever the entity has the consent of the individual receiving services or his legal representative. If an individual receiving services is unable to consent to the review of his medical and social records and has no legal representative, and access to the records is necessary to investigate a complaint, access shall be granted to the extent necessary to conduct the investigation. Access also shall be granted if a legal representative of the individual receiving services refuses to give consent and the entity has reasonable cause to believe that the legal representative is not acting in the best interests of the individual receiving services There is no right of access to communications privileged under §8.01-581.17. *Passed*

HB 450 (R.B. Bell) Employment background checks.

Prohibits employment of any individual in a position that involves direct contact with a patient of, or person receiving services from, a nursing home, home health organization, hospice or assisted living facility until the results of a criminal history background check have been received, unless the person works under the direct supervision of a person for whom a background check has been performed. *Passed*

HB 702 (Head) Uniform assessments; qualified assessors.

Requires the Department of Medical Assistance Services to enter into contracts with public and private entities to conduct community-based and institutional nursing facility preadmission screenings in jurisdictions in which the screening team has been unable to complete screenings within 30 days of an individual's application. Every individual who requests a screening for the purpose of enrollment in a PACE plan shall be eligible for such screening, regardless of whether the individual is eligible under the state plan for medical assistance. *Passed*

HB 831 (Keam) Care of individuals with dementia.

Would have established a work group to study and make recommendations related to the provision of care for individuals with dementia residing in nursing homes and facilities in the Commonwealth. *Failed; Department of Aging and Rehabilitative Services to collect and distribute best practices in dementia care.*

HB 888 (Peace) Uniform assessment; assisted living facilities.

Transfers authority for promulgating regulations governing uniform assessments for assisted living facility applicants from the Board of Social Services to the Department for Aging and Rehabilitative Services. *Passed*

Medicaid

HB 586 (O'Bannon); SB 416 (Hanger) Family Access to Medical Insurance Security Plan; eligibility.

Eliminates the requirement that an individual under the age of 19 must have been without health insurance for at least four months or must meet the requirements set forth in the Virginia Plan for Title XXI of the Social Security Act (Children's Health Insurance Program) to be eligible for assistance under the Family Access to Medical Insurance Security Plan. *Passed*

Medical Malpractice & Legal Process

HB 130 (Minchew); SB 253 (McDougle) Civil immunity for service on quality committees.

Extends civil liability protection to members of, or consultants to, boards or committees established (i) under the requirements of any national accrediting organization granted deeming authority by the Centers for Medicare and Medicaid Services or (ii) pursuant to guidelines approved or adopted by statewide or local associations representing licensed health care providers for acts or omissions committed in the performance of their related duties. *Passed*

HB 191 (Minchew); SB 185 (Stuart) Physician assistant and chiropractor as expert witness.

Allows a properly qualified physician assistant to testify as an expert witness in court on certain matters within the scope of his activities as authorized under Virginia law, except in any medical malpractice action for or against (i) a defendant doctor of medicine or osteopathic medicine regarding standard of care or (ii) a defendant health care provider regarding causation. Allows a chiropractor to testify as an expert witness on treatment plans. *Passed*

HB 301 (Loupassi) Admissibility of business records.

In civil proceedings, permits the foundation necessary for the admission of a business record under the hearsay rule's business records exception to be laid by witness testimony, a certificate of authenticity of and foundation for the record made by the record's custodian or another qualified witness, or a combination of testimony and a certification. *Passed*

HB 393 (Chafin) Creditor entry of paid judgment.

Requires creditor to enter debtor's payment on the judgment docket within 90 days of payment of a judgment or within 10 days of being notified of satisfaction. *Passed*

HB 394 (Chafin); SB 114 (Stanley) Report of out-of-state health care providers in personal injury suit.

In a personal injury suit tried in a general district court or appealed to the circuit court, permits either party to present evidence of the injury, treatment and cost through a report from a health care provider licensed outside the Commonwealth for his treatment of the plaintiff outside the Commonwealth. *Passed*

HB 490 (Albo) Electronic medical records; metadata.

Would have required health care providers, upon request of a patient or the patient's attorney, to provide the patient with the metadata of the patient's electronic medical record. *Failed; stakeholder study in progress.*

HB 661 (R.B. Bell) Falsifying patient records.

Increases from one year to three years the statute of limitations on prosecutions for misdemeanor falsification of patient records with the intent to defraud. *Passed*

HB 718 (McClellan); SB 395 (Vogel) Medical malpractice claims for failure to communicate results.

Would have extended for an additional year the statute of limitations in medical malpractice claims for delay in communicating to a patient the interpretation of an imaging or diagnostic test or study revealing a diagnosis of a malignant tumor or cancer, with limitations period running from the date the diagnosis of a malignant tumor or cancer is communicated to the patient by a health care provider. *Failed; to be studied.*

HB 728 (Lingamfelter) Fraud and Abuse Whistle Blower Protection Act.

Prohibits employers from discharging, threatening, or otherwise discriminating or retaliating against a whistle blower, in whole or in part, because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry. *Passed*

HB 743 (McClellan); SB 576 (McEachin) Mental health; possession of firearms.

Specifies time within which judge or special justice must notify clerk and clerk must report judicial action prohibiting an individual from possessing firearms. *Passed*

HB 1037 (Joannou) Medical reports as evidence.

Authorizes admission into evidence of a medical report from a treating or examining health care provider in a civil action for personal injuries or to resolve a dispute with an insurance company or health care provider in general district court or an appeal to circuit court, provided such report is accompanied by a sworn statement from the custodian of such report stating that the report is a true and accurate copy. *Passed*

HB 1039 (Joannou) Trial by jury.

Establishes that, unless waived, any demand for a trial by jury in a civil case made in compliance with the Rules of the Supreme Court of Virginia shall be sufficient, without further notice or order, to proceed with trial by a jury. *Passed*

HB 1041 (Joannou) Nonsuits.

Establishes that when a voluntary nonsuit is taken in a civil case, the statute of limitations with respect to the cause of action is tolled and the nonsuiting party may recommence his action within six months from the date the nonsuit is taken or within the original limitations period, whichever is longer. *Passed*

SB 245 (McEachin) Qualification of administrator in action for wrongful death.

Clarifies that the appointment of a fiduciary in a foreign jurisdiction shall not preclude the fiduciary from qualifying as an administrator of an estate for the purpose of bringing a wrongful death or personal injury suit in Virginia. *Passed*

Taxes

HB 497 (Head) Appeal of business license tax classification.

Permits a taxpayer to appeal to the Tax Commissioner or request a written ruling from him with regard to the classification of the business for BPOL tax purposes, regardless of whether the locality has conducted an audit, issued an assessment, or taken any other action. *Passed*

Unemployment Compensation

SB 18 (Locke) Voluntarily leaving to accompany military spouse.

Recognizes that an employee has established good cause for leaving employment when voluntarily leaving a job to accompany a spouse who is on active duty in the military to a new military-related assignment. *Passed*

SB 110 (Stanley) Short-time compensation program.

Establishes a short-time compensation program that provides employers with the option of reducing the hours worked by employees, while permitting the employees whose hours are reduced to receive partial compensation for lost wages. Program participation requires Virginia Employment Commission approval of a plan. (Effective July 1, 2015) *Passed*

Worker's Compensation

HB 458 (Kilgore) Civil penalties for noncompliance.

Increases the maximum civil penalty that may be assessed against an employer for failure to obtain workers' compensation insurance or provide evidence of compliance with the Virginia Workers' Compensation Act to \$50,000. *Passed*

HB 946 (Hugo) Fee schedule; prompt payment.

Would have determined the pecuniary liability of an employer for medical, surgical, and hospital services provided on or after October 1, 2015, under the Virginia Workers' Compensation Act based on fee schedules established by the Workers' Compensation Commission, unless a contract provides otherwise. The fee schedule would be based initially on Medicare and utilize Medicare coding and reimbursement rules. *Failed*

HB 1083 (Ware) Payment for medical services.

Limits payment responsibility of an employer for medical treatment provided to an injured person that is rendered by a nurse practitioner or physician assistant serving as an assistant-at surgery to no more than 20 percent of the reimbursement due to the physician performing the surgery, and limits payment responsibility for treatment provided by an assistant surgeon in the same specialty as the primary surgeon to no more than 50 percent of the reimbursement due to the physician performing the surgery. Requires multiple procedures completed on a single surgical site associated with medical, surgical, and hospital services to be coded and billed with appropriate Current Procedural Terminology modifiers and paid according to the National Correct Coding Initiative rules and hospital inpatient care to be coded and billed consistent with the International Statistical Classification of Diseases and Related Health Problems. Also (i) establishes prompt payment requirements with respect to health care services provided under the Workers' Compensation Act; (ii) prohibits an employer or insurer from seeking recovery of a payment made to a health care provider for health care services rendered after July 1, 2014, absent fraud, unless recovery is sought less than one year from the date payment was made; (iii) prohibits a health care provider from submitting a claim to the Workers' Compensation Commission contesting the sufficiency of payment for health care services rendered to a claimant on or after July 1, 2014, unless such claim is filed within one year from the date the last payment is received by the provider or the date the medical award for a specific item or treatment that is denied or contested by the employer becomes final; (iv) requires that health care providers located outside of the Commonwealth be reimbursed according to Virginia prompt payment and claims limitations; and (v) clarifies the application of the balance billing prohibition. *Passed*

Workforce Development & Education

HB 133 (Cole) Two-Year College Transfer Grant Program.

Permits a student to enroll in a four-year institution by the spring following the award of an associate's degree and remain eligible for a grant under the program. Current law requires a student to enroll in a four-year institution by the following fall to be eligible. *Passed*

HB 1009 (Byron) Workforce development.

Reconfigures the Virginia Workforce Council as the Virginia Board of Workforce Development led by a Chief Workforce Development Advisor. The Board may establish such other committees as it deems necessary, including a military transition assistance committee. *Passed*

BUDGET

Closing the Coverage Gap

Finding a sustainable and common sense solution to closing the coverage gap for low-income uninsured Virginians is a top priority for Virginia's hospitals and health systems. The Governor's budget, the Senate's proposed "Marketplace Virginia," and the Virginia Chamber of Commerce's principles for a private option all included solutions incorporating a private, free market-based approach that offered a workable alternative to Medicaid expansion.

Legislators wrestled through the regular session and a protracted subsequent special session over this issue, but were unable to resolve their differences. The Senate continued to include in its budget a private option called "Marketplace Virginia" that uses federal funding to close the coverage gap. The House maintained its opposition to using such federal funding to expand coverage in any form, insisting on separating the issue from the budget, suggesting instead a separate special session to debate drawing down federal dollars for this purpose.

Finally on June 12, just weeks from the end of the state's fiscal year (FY), legislators passed a state budget, expedited in part by an emerging revenue shortfall, warnings from credit rating agencies and a Senate resignation that shifted the balance of power in the evenly divided Senate to the Republicans. To ensure timely passage of a budget by the end of the FY, legislators removed from the budget the Senate's "Marketplace Virginia" provision, with the understanding that separate legislation would be introduced and debated at a later time. Additionally, the Senate offered, and the House approved, an amendment in the budget preventing the expansion of Medicaid without approval by a majority of both chambers. Governor McAuliffe vetoed that amendment, among others; however, Speaker of the House Howell ruled the veto as beyond the Governor's constitutional authority and out of order. The question of whether the veto stands will likely now move to the courts. Meanwhile, the Governor has directed Secretary of Health and Human Resources Hazel to develop options for pursuing action on closing the coverage gap by September 1 independent from the General Assembly.

The politically charged debate over the federal health reform law has now evolved into a broader constitutional dispute over executive versus legislative prerogatives and authority. The debate about Medicaid and potential plans for closing the coverage gap this year can be characterized in many ways, but an example of the traditional Virginia way for civilly debating and ultimately resolving major policy issues it is not.

The issue has not gone away and policy makers have a responsibility for finding a path forward that best serves the economic and health interests of the Commonwealth. It is our collective responsibility to ensure that they do so.

Other Budget Priorities

The agreed upon budget reflected more than \$1.5 billion in reduced revenues compared to what had been projected in February. To achieve the necessary savings, the General Assembly generally held spending at FY2014 levels – including withdrawing inflation for both years for hospitals – for aggregate savings across all state programs of \$842.5 million. While prioritizing funding for K-12 education, mental health reform and the Virginia Retirement System, budget writers also relied on the "Rainy Day Fund" to balance the state's books. In addition to elimination of hospital inflation for both years, other cost-saving measures in the approved budget that affect hospitals and health systems include reductions to nursing home capital payments in both years and elimination of nursing home inflation in FY2016; and elimination of proposed increases for the health care safety net.

Eliminating inflation for hospitals will yield payments that will fall to an average 66 percent of costs by FY2016 if not corrected. The fact that most state programs and services are being held to FY2014 funding levels offers cold comfort when one considers that the General Assembly had available a remedy for health care providers (in the form of expanded coverage) that would also have yielded more than \$225 million in net state savings for the biennium to help address the revenue shortfall. Rejection of the return of our own tax dollars to fund coverage has led to steeper reductions across all core services than would otherwise have been necessary.

Behavioral Health

In addition, the final budget makes certain investments in mental health services, some of which were necessary to support the policy changes that took effect July 1. Altogether, an additional \$50 million is being invested in mental health services. Key funding provisions include:

- \$2.1 million for costs associated with extending maximum duration of temporary detention order period from 48 hours to 72 hours.
- \$9 million for 24 more crisis intervention drop-off centers.
- \$4.7 million for four additional Programs of Assertive Community Treatment.
- \$11.3 million each year to increase capacity at various state facilities by 50 beds.
- \$250,000 in FY15 and \$500,000 in FY16 to purchase private inpatient beds.
- \$1.5 million for children's mental health services.
- \$7.5 million for mental health outpatient services for older teens and young adults.
- \$1.7 million to support telepsychiatry capacity of community services boards.



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