

SENATE BILL NO. 788

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 13, 2023)

(Patron Prior to Substitute--Senator Favola)

A BILL to amend and reenact §§ 4.1-604, 4.1-605, 4.1-627, 18.2-251.1:1, 18.2-251.1:2, 22.1-277, 32.1-127, 32.1-162.6:1, 40.1-27.4, 46.2-341.20:7, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, 59.1-200, and 63.2-1803.01 of the Code of Virginia; to amend the Code of Virginia by adding in Title 4.1 a chapter numbered 16, consisting of sections numbered 4.1-1600 through 4.1-1605; and to repeal Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia and the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, relating to medical cannabis program; transition from Board of Pharmacy to Virginia Cannabis Control Authority.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-604, 4.1-605, 4.1-627, 18.2-251.1:1, 18.2-251.1:2, 22.1-277, 32.1-127, 32.1-162.6:1, 40.1-27.4, 46.2-341.20:7, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, 59.1-200, and 63.2-1803.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 4.1 a chapter numbered 16, consisting of sections numbered 4.1-1600 through 4.1-1605, as follows:

§ 4.1-604. Powers and duties of the Board.

The Board shall have the following powers and duties:

- 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;
- 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

26 3. Grant, suspend, and restrict, revoke licenses for the cultivation, manufacture, distribution, sale,
27 and testing of marijuana and marijuana products as provided by law, or refuse to grant or renew any license
28 or permit issued or authorized pursuant to this subtitle;

29 4. Determine the nature, form, and capacity of all containers used for holding marijuana products
30 to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

31 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

32 6. Establish standards and implement an online course for employees of retail marijuana stores
33 that trains employees on how to educate consumers on the potential risks of marijuana use;

34 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
35 similar document regarding the potential risks of marijuana use to be prominently displayed and made
36 available to consumers;

37 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business
38 Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on
39 matters related to diversity, equity, and inclusion standards in the marijuana industry;

40 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop
41 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish
42 to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may
43 include a requirement that the licensee participate in social equity apprenticeship plan, and an approval
44 process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis
45 of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned
46 businesses interested in participating in the marijuana industry and recommending strategies to effectively
47 mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana
48 establishment licensees; (iv) spread awareness of business opportunities related to the marijuana
49 marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide
50 technical assistance in navigating the administrative process to potential marijuana establishment
51 licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana
52 prohibition and enforcement as necessary;

53 10. Establish a position for an individual with professional experience in a health related field who
54 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the
55 Office of the Secretary of Health and Human Resources and relevant health and human services agencies
56 and organizations, and perform other duties as needed.

57 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and
58 the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana
59 industry by people from communities that have been disproportionately impacted by marijuana
60 prohibition and enforcement and to positively impact those communities;

61 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

62 13. Adopt, use, and alter at will a common seal;

63 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
64 the sale of products of, or services rendered by the Authority at rates to be determined by the Authority
65 for the purpose of providing for the payment of the expenses of the Authority;

66 15. Make and enter into all contracts and agreements necessary or incidental to the performance
67 of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
68 agreements with any person or federal agency;

69 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
70 experts, investment bankers, superintendents, managers, and such other employees and special agents as
71 may be necessary and fix their compensation to be payable from funds made available to the Authority.
72 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
73 (§ 2.2-500 et seq.) of Title 2.2;

74 17. Receive and accept from any federal or private agency, foundation, corporation, association,
75 or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
76 and accept from the Commonwealth or any state and any municipality, county, or other political
77 subdivision thereof or from any other source aid or contributions of either money, property, or other things
78 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
79 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority

80 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
81 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
82 conditions as are prescribed by the Commonwealth;

83 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
84 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
85 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
86 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
87 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
88 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
89 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or
90 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
91 and tasks;

92 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the
93 Authority's purposes or necessary or convenient to exercise its powers;

94 20. Develop policies and procedures generally applicable to the procurement of goods, services,
95 and construction, based upon competitive principles;

96 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43
97 of Title 2.2;

98 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
99 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
100 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
101 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
102 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
103 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
104 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
105 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the

106 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
107 land or building required for the purposes of this subtitle;

108 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
109 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,
110 blending, and processing plants;

111 24. Appoint every agent and employee required for its operations, require any or all of them to
112 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the
113 services of experts and professionals;

114 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
115 production of records, memoranda, papers, and other documents before the Board or any agent of the
116 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member
117 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
118 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
119 The Board may enter into consent agreements and may request and accept from any applicant ~~or~~ licensee,
120 or permittee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or
121 permit or (ii) disciplinary action. Any such consent agreement (a) shall include findings of fact and
122 provisions regarding whether the terms of the consent agreement are confidential and (b) may include an
123 admission or a finding of a violation. A consent agreement shall not be considered a case decision of the
124 Board and shall not be subject to judicial review under the provisions of the Administrative Process Act
125 (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

126 26. Make a reasonable charge for preparing and furnishing statistical information and compilations
127 to persons other than (i) officials, including court and police officials, of the Commonwealth and of its
128 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
129 interest in obtaining the information requested if such information is not to be used for commercial or
130 trade purposes;

131 27. ~~Assess~~ Take appropriate disciplinary action and assess and collect civil penalties and civil
132 charges for violations of this subtitle and Board regulations;

133 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief
134 Executive Officer as the Board deems appropriate;

135 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-
136 enforcement activities undertaken to enforce the provisions of this subtitle;

137 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
138 applications for such permits;

139 31. Develop and make available on its website guidance documents regarding compliance and safe
140 practices for persons who cultivate marijuana at home for personal use, which shall include information
141 regarding cultivation practices that promote personal and public safety, including child protection, and
142 discourage practices that create a nuisance;

143 32. Develop and make available on its website a resource that provides information regarding (i)
144 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana
145 consumption, including inability to operate a motor vehicle and other types of transportation and
146 equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain
147 employment opportunities. The Board shall require that the web address for such resource be included on
148 the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

149 33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

150 **§ 4.1-605. Additional powers; mediation; alternative dispute resolution; confidentiality.**

151 A. As used in this section:

152 "Appropriate case" means any alleged license or permit violation or objection to the application
153 for a license or permit in which it is apparent that there are significant issues of disagreement among
154 interested persons and for which the Board finds that the use of a mediation or dispute resolution
155 proceeding is in the public interest.

156 "Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

157 "Mediation" means the same as that term is defined in § 8.01-576.4.

158 "Neutral" means the same as that term is defined in § 8.01-576.4.

159 B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve
160 underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute
161 resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather
162 than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution
163 proceeding may be used for an objection to the issuance of a license or permit only with the consent of,
164 and participation by, the applicant for ~~license~~ a license or permit and shall be terminated at the request
165 of such applicant.

166 C. Any resolution of a contested issue accepted by the Board under this section shall be considered
167 a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution
168 proceeding is in the Board's sole discretion and shall not be subject to judicial review.

169 D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act
170 (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i)
171 standards and procedures for the conduct of mediation and dispute resolution proceedings, including an
172 opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the
173 appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle
174 contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other
175 materials.

176 E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute
177 resolution proceeding shall govern all such proceedings held pursuant to this section except where the
178 Board uses or relies on information obtained in the course of such proceeding in granting ~~a license,~~
179 ~~suspending, restricting,~~ or revoking a license or permit, or in accepting payment of a civil penalty or
180 investigative costs. ~~However, a consent agreement~~ Consent agreements shall be signed by the all parties
181 and shall not be include provisions regarding whether the terms of the consent agreement are confidential.

182 **§ 4.1-627. Hearings; representation by counsel.**

183 Any licensee, permittee, or applicant for ~~any a license granted by the Board~~ or permit authorized
184 by this subtitle shall have the right to be represented by counsel at any Board hearing for which he has
185 received notice. The licensee, permittee, or applicant shall not be required to be represented by counsel

186 during such hearing. Any officer or director of a corporation may examine, cross-examine, and question
187 witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments
188 before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

189 CHAPTER 16.

190 MEDICAL CANNABIS PROGRAM.

191 § 4.1-1600. Definitions.

192 As used in this chapter, unless the context requires a different meaning:

193 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same
194 parts of the same chemovar of cannabis plant.

195 "Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board
196 pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses
197 cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such
198 patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

199 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include
200 industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor
201 pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains no more than 10
202 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as
203 defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it
204 has been grown and processed in the Commonwealth by a registered industrial hemp processor and
205 acquired and formulated by a pharmaceutical processor.

206 "Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered
207 with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical
208 cannabis.

209 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-
210 162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home
211 health services, private provider licensed by the Department of Behavioral Health and Developmental

212 Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility
213 licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

214 "Dispense" means the same as that term is defined in § 54.1-3300.

215 "Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant
216 to § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical
217 cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient
218 pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult
219 as defined in § 18.2-369, such patient's parent or legal guardian.

220 "Pharmacist" means the same as that term is defined in § 54.1-3300.

221 "Pharmacy intern" means the same as that term is defined in § 54.1-3300.

222 "Pharmacy technician" means the same as that term is defined in § 54.1-3300.

223 "Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

224 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine,
225 a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the
226 Boards of Nursing and Medicine.

227 "Registered agent" means an individual designated by a patient who has been issued a written
228 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by
229 such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-
230 1601.

231 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has
232 been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber
233 produced from the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation
234 of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

235 **§ 4.1-1601. Certification for use of cannabis for treatment.**

236 A. A practitioner in the course of his professional practice may issue a written certification for the
237 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
238 determined by the practitioner to benefit from such use. The practitioner shall use his professional

239 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
240 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-
241 time interactive audiovisual technology. If a practitioner determines it is consistent with the standard of
242 care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such
243 dispensing. If not specifically included on the initial written certification, authorization for botanical
244 cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

245 B. The written certification shall be on a form provided by the Authority. Such written certification
246 shall contain the name, address, and telephone number of the practitioner, the name and address of the
247 patient issued the written certification, the date on which the written certification was made, and the
248 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to
249 subsection A shall expire no later than one year after its issuance unless the practitioner provides in such
250 written certification an earlier expiration. A written certification shall not be issued to a patient by more
251 than one practitioner during any given time period.

252 C. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a
253 certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's
254 diagnosed condition or disease pursuant to a written certification issued pursuant to subsection A. Nothing
255 in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly
256 evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for
257 evaluating or treating medical conditions.

258 D. A practitioner who issues a written certification to a patient pursuant to this section shall register
259 with the Board and shall hold sufficient education and training to exercise appropriate professional
260 judgment in the certification of patients. The Board shall not limit the number of patients to whom a
261 practitioner may issue a written certification. The Board may report information to the applicable licensing
262 board on unusual patterns of certifications issued by a practitioner.

263 E. No patient shall be required to physically present the written certification after the initial
264 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
265 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an

266 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
267 shall electronically transmit on a monthly basis all new written certifications received by the
268 pharmaceutical processor or cannabis dispensing facility to the Authority.

269 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
270 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
271 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
272 register with the Board. The Board may set a limit on the number of patients for whom any individual is
273 authorized to act as a registered agent.

274 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing
275 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility
276 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
277 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for
278 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product
279 to the patient or resident as necessary.

280 H. Information obtained under the registration process shall be confidential and shall not be subject
281 to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
282 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
283 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
284 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific
285 violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing
286 patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a
287 pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a
288 patient's registered agent, but only with respect to information related to such patient.

289 **§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

290 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without
291 first obtaining a permit from the Board. The application for such permit shall be made on a form provided
292 by the Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical

293 processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee
294 and other general requirements for such application.

295 B. Each permit shall expire annually on a date determined by the Board in regulation. The number
296 of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and
297 up to five cannabis dispensing facilities for each health service area established by the Board of Health.
298 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and
299 cannabis dispensing facility.

300 C. The Board shall adopt regulations establishing health, safety, and security requirements for
301 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements
302 for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum
303 equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical
304 cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and
305 packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and
306 securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if
307 such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal
308 guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not
309 exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and
310 the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between
311 pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and
312 between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of
313 dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth
314 in state and federal law, including the laboratory testing standards set forth in subsection N; (xii) an
315 allowance for the use and distribution of inert product samples containing no cannabinoids for patient
316 demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for
317 further distribution or sale, without the need for a written certification; (xiii) a process for acquiring
318 industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for
319 the advertising and promotion of the pharmaceutical processor's products and operations, which shall not

320 limit the pharmaceutical processor from the provision of educational material to practitioners who issue
321 written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors
322 that include requirements for (a) processes for safely and securely cultivating cannabis plants intended for
323 producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering
324 cannabis products.

325 D. The Board shall require pharmaceutical processors, after processing and before dispensing any
326 cannabis products, to make a sample available from each batch of cannabis product for testing by an
327 independent laboratory that is located in Commonwealth and meets Board requirements. A valid sample
328 size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical
329 method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for
330 dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a
331 representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified
332 testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical
333 cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total
334 cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals,
335 mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with
336 generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical
337 cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation,
338 all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing and approved upon
339 satisfaction of applicable testing standards, which shall not be more stringent than initial testing prior to
340 remediation. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable
341 cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis
342 product with an expiration date assigned by the pharmaceutical processor of six months or less from the
343 date of the cannabis product registration approval. Stability testing required for assignment of an
344 expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and
345 potency testing, on a 10 percent deviation basis, of active ingredients.

346 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
347 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the
348 Board of Pharmacy in regulation.

349 F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under
350 the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or
351 cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are
352 adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have
353 concurrent responsibility for preventing diversion from the dispensing area.

354 Every pharmaceutical processor shall designate a person who shall have oversight of the
355 cultivation and production areas of the pharmaceutical processor and shall provide such information to
356 the Board. The Board shall direct all communications related to enforcement of requirements related to
357 cultivation and production of cannabis oil products by the pharmaceutical processor to such designated
358 person.

359 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or
360 cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive
361 information to be forwarded along with his fingerprints through the Central Criminal Records Exchange
362 to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information
363 regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search
364 shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the
365 criminal history background check to the Board or its designee, which shall be a governmental entity.

366 H. A pharmaceutical processor shall maintain evidence of criminal background checks for all
367 employees and delivery agents of the pharmaceutical processor. Criminal background checks of
368 employees and delivery agents may be conducted by any service sufficient to disclose any federal and
369 state criminal convictions.

370 I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
371 individuals who may have less than two years of experience (i) to perform cultivation-related duties under
372 the supervision of an individual who has received a degree in a field related to the cultivation of plants or

373 a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii)
374 to perform extraction-related duties under the supervision of an individual who has a degree in chemistry
375 or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform
376 duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy
377 technician.

378 J. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to
379 five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and
380 produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing
381 facility shall be located within the same health service area as the pharmaceutical processor.

382 K. No person who has been convicted of a felony under the laws of the Commonwealth or another
383 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor
384 or cannabis dispensing facility.

385 L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-
386 employment drug screening and regular, ongoing, random drug screening of employees.

387 M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing
388 facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician
389 trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise
390 more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical
391 processor's dispensing area or cannabis dispensing facility.

392 N. A pharmaceutical processor may acquire industrial hemp extracts grown and processed in
393 Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or
394 processor. A pharmaceutical processor may process and formulate such extracts into an allowable dosage
395 of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are
396 subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall
397 be performed by a laboratory located in Virginia and in compliance with state law governing the testing
398 of cannabis products. The industrial hemp dealer or processor shall provide such third-party testing results
399 to the pharmaceutical processor before industrial hemp extracts may be acquired.

400 O. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§
401 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption
402 of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the
403 Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post
404 the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i)
405 a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address,
406 and telephone number of the agency contact person responsible for receiving public comments. Such
407 notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of
408 public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to
409 the promulgation or final adoption process for regulations pursuant to this section. The Board shall
410 consider and keep on file all public comments received for any regulation adopted pursuant to this section.

411 P. The Board shall register all cannabis products that meet testing, labeling, and packaging
412 standards.

413 **§ 4.1-1603. Dispensing cannabis products; report.**

414 A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis
415 products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and
416 has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a
417 minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a
418 Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a
419 pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing
420 of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed
421 by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or
422 remotely by electronic means, for two years a paper or electronic copy of the written certification that
423 provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual
424 means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall
425 verify current board registration of the practitioner and the corresponding registered agent if applicable.
426 Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian,

427 or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each
428 written certification, an employee or delivery agent shall view a current photo identification of the patient,
429 registered agent, parent, or legal guardian and the current board registration issued to the registered agent
430 if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-
431 day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during
432 any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a
433 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical
434 processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one
435 time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which
436 botanical cannabis is dispensed. The Board shall establish in regulation an amount of cannabis oil that
437 constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease.
438 In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical
439 processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and
440 adjust the amount dispensed accordingly.

441 B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis
442 products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis
443 products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical
444 processor from a registered industrial hemp dealer or processor pursuant to § 4.1-1602. A pharmaceutical
445 processor may begin cultivation upon being issued a permit by the Board.

446 C. The Board shall report annually by December 1 to the Chairmen of the House Committee on
447 General Laws and the Senate Committee on Rehabilitation and Social Services on the operation of
448 pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

449 D. The concentration of delta-9-tetrahydrocannabinol in any cannabis product on site may be up
450 to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A
451 pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any
452 cannabis product on site is within such range. A pharmaceutical processor producing cannabis products
453 shall establish a stability testing schedule of cannabis products.

454 **§ 4.1-1604. Criminal liability; exceptions.**

455 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
456 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, 18.2-248.1, or 18.2-250 for possession or
457 manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to
458 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
459 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes
460 of producing cannabis products in accordance with the provisions of this chapter and Board regulations
461 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally
462 accepted cannabis industry standards in accordance with the provisions of this chapter and Board
463 regulations.

464 **§ 4.1-1605. Summary suspensions and restrictions.**

465 A. The Board may summarily suspend or restrict a permit issued pursuant to § 4.1-1602 without a
466 hearing if the Board finds that such suspension or restriction is necessary to prevent substantial danger to
467 public health or safety. The Board shall make decisions to summarily suspend or restrict a permit only
468 during an in-person meeting in which a quorum is present; however, if, after a good faith effort, the Board
469 is unable to assemble a quorum and a majority of the Board members determine that continued operation
470 by the permittee constitutes a substantial danger to public health or safety, the Board may summarily
471 suspend the permit during a telephone, video, or other electronic conference. Institution of proceedings
472 for a hearing shall be provided simultaneously with a summary suspension. The Board may summarily
473 restrict a permit without proceeding simultaneously with notification of an informal conference pursuant
474 to § 2.2-4019 or Board regulations. Such hearing or conference shall be held within a reasonable amount
475 of time after the summary suspension or restriction is issued.

476 B. Allegations of violations of this subtitle shall be submitted to the Board in writing.

477 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

478 No school nurse employed by a local school board, person employed by a local health department
479 who is assigned to the public school pursuant to an agreement between the local health department and
480 the school board, or other person employed by or contracted with a local school board to deliver health-

481 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-
 482 248.1, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
 483 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student
 484 who has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection~~
 485 ~~B of § 54.1-3408.3~~ 4.1-1601.

486 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
 487 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

488 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
 489 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
 490 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250 for the possession
 491 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a
 492 patient or resident who has been issued a valid written certification for the use of cannabis oil in
 493 accordance with ~~subsection B of § 54.1-3408.3~~ and ~~has registered with the Board of Pharmacy~~ § 4.1-1601.

494 **§ 22.1-277. Suspensions and expulsions of students generally.**

495 A. Students may be suspended or expelled from attendance at school for sufficient cause; however,
 496 in no cases may sufficient cause for suspensions include only instances of truancy.

497 B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool
 498 through grade three shall be suspended for more than three school days or expelled from attendance at
 499 school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii)
 500 the local school board or the division superintendent or his designee finds that aggravating circumstances
 501 exist, as defined by the Department.

502 C. Any student for whom the division superintendent of the school division in which such student
 503 is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction
 504 for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance
 505 pursuant to this article.

506 D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in
507 certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04,
508 22.1-277.05, or 22.1-277.06.

509 E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend
510 or expel any student who holds a valid written certification for the use of cannabis oil issued by a
511 practitioner in accordance with ~~subsection B of § 54.1-3408.3~~ 4.1-1601 for the possession or use of such
512 oil in accordance with the student's individualized health plan and in compliance with a policy adopted by
513 the school board.

514 **§ 32.1-127. Regulations.**

515 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in
516 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as
517 established and recognized by medical and health care professionals and by specialists in matters of public
518 health and safety, including health and safety standards established under provisions of Title XVIII and
519 Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

520 B. Such regulations:

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

529 2. Shall provide that at least one physician who is licensed to practice medicine in this
530 Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at
531 each hospital which operates or holds itself out as operating an emergency service;

532 3. May classify hospitals and nursing homes by type of specialty or service and may provide for
533 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

534 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with
535 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42
536 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization
537 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement
538 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients
539 in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ
540 donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified
541 by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for
542 tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at
543 least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of
544 tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid
545 interference with organ procurement. The protocol shall ensure that the hospital collaborates with the
546 designated organ procurement organization to inform the family of each potential donor of the option to
547 donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall
548 have completed a course in the methodology for approaching potential donor families and requesting
549 organ or tissue donation that (a) is offered or approved by the organ procurement organization and
550 designed in conjunction with the tissue and eye bank community and (b) encourages discretion and
551 sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition,
552 the hospital shall work cooperatively with the designated organ procurement organization in educating the
553 staff responsible for contacting the organ procurement organization's personnel on donation issues, the
554 proper review of death records to improve identification of potential donors, and the proper procedures
555 for maintaining potential donors while necessary testing and placement of potential donated organs,
556 tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the
557 relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer

558 of the hospital or his designee knows of such opposition, and no donor card or other relevant document,
559 such as an advance directive, can be found;

560 5. Shall require that each hospital that provides obstetrical services establish a protocol for
561 admission or transfer of any pregnant woman who presents herself while in labor;

562 6. Shall also require that each licensed hospital develop and implement a protocol requiring written
563 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall
564 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother
565 and the infant be made and documented. Appropriate referrals may include, but need not be limited to,
566 treatment services, comprehensive early intervention services for infants and toddlers with disabilities and
567 their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et
568 seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent
569 possible, the other parent of the infant and any members of the patient's extended family who may
570 participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant
571 to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal
572 law restrictions, the community services board of the jurisdiction in which the woman resides to appoint
573 a discharge plan manager. The community services board shall implement and manage the discharge plan;

574 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant
575 for admission the home's or facility's admissions policies, including any preferences given;

576 8. Shall require that each licensed hospital establish a protocol relating to the rights and
577 responsibilities of patients which shall include a process reasonably designed to inform patients of such
578 rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to
579 patients on admission, shall be consistent with applicable federal law and regulations of the Centers for
580 Medicare and Medicaid Services;

581 9. Shall establish standards and maintain a process for designation of levels or categories of care
582 in neonatal services according to an applicable national or state-developed evaluation system. Such
583 standards may be differentiated for various levels or categories of care and may include, but need not be
584 limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

585 10. Shall require that each nursing home and certified nursing facility train all employees who are
586 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting
587 procedures and the consequences for failing to make a required report;

588 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations,
589 or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication
590 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute
591 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period
592 of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or
593 hospital policies and procedures, by the person giving the order, or, when such person is not available
594 within the period of time specified, co-signed by another physician or other person authorized to give the
595 order;

596 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the
597 offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the
598 administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal
599 vaccination, in accordance with the most recent recommendations of the Advisory Committee on
600 Immunization Practices of the Centers for Disease Control and Prevention;

601 13. Shall require that each nursing home and certified nursing facility register with the Department
602 of State Police to receive notice of the registration, reregistration, or verification of registration
603 information of any person required to register with the Sex Offender and Crimes Against Minors Registry
604 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within the same or a contiguous zip code area in
605 which the home or facility is located, pursuant to § 9.1-914;

606 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,
607 whether a potential patient is required to register with the Sex Offender and Crimes Against Minors
608 Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the home or facility anticipates the
609 potential patient will have a length of stay greater than three days or in fact stays longer than three days;

610 15. Shall require that each licensed hospital include in its visitation policy a provision allowing
611 each adult patient to receive visits from any individual from whom the patient desires to receive visits,

612 subject to other restrictions contained in the visitation policy including, but not limited to, those related to
613 the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

614 16. Shall require that each nursing home and certified nursing facility shall, upon the request of
615 the facility's family council, send notices and information about the family council mutually developed by
616 the family council and the administration of the nursing home or certified nursing facility, and provided
617 to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice
618 up to six times per year. Such notices may be included together with a monthly billing statement or other
619 regular communication. Notices and information shall also be posted in a designated location within the
620 nursing home or certified nursing facility. No family member of a resident or other resident representative
621 shall be restricted from participating in meetings in the facility with the families or resident representatives
622 of other residents in the facility;

623 17. Shall require that each nursing home and certified nursing facility maintain liability insurance
624 coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least
625 equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries
626 and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum
627 insurance shall result in revocation of the facility's license;

628 18. Shall require each hospital that provides obstetrical services to establish policies to follow
629 when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling
630 patients and their families and other aspects of managing stillbirths as may be specified by the Board in
631 its regulations;

632 19. Shall require each nursing home to provide a full refund of any unexpended patient funds on
633 deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid
634 to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds
635 by the discharged patient or, in the case of the death of a patient, the person administering the person's
636 estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

637 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol
638 that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct

639 verbal communication between the on-call physician in the psychiatric unit and the referring physician, if
640 requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing
641 a request for such direct verbal communication by a referring physician and (ii) a patient for whom there
642 is a question regarding the medical stability or medical appropriateness of admission for inpatient
643 psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in
644 the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal
645 communication, either in person or via telephone, with a clinical toxicologist or other person who is a
646 Certified Specialist in Poison Information employed by a poison control center that is accredited by the
647 American Association of Poison Control Centers to review the results of the toxicology screen and
648 determine whether a medical reason for refusing admission to the psychiatric unit related to the results of
649 the toxicology screen exists, if requested by the referring physician;

650 21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall
651 develop a policy governing determination of the medical and ethical appropriateness of proposed medical
652 care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical
653 appropriateness of proposed medical care in cases in which a physician has determined proposed care to
654 be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed
655 medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and
656 a determination by the interdisciplinary medical review committee regarding the medical and ethical
657 appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision
658 reached by the interdisciplinary medical review committee, which shall be included in the patient's
659 medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make
660 medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical
661 record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate
662 in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or
663 the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to
664 represent the patient or from seeking other remedies available at law, including seeking court review,
665 provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-

666 2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days
667 of the date on which the physician's determination that proposed medical treatment is medically or
668 ethically inappropriate is documented in the patient's medical record;

669 22. Shall require every hospital with an emergency department to establish protocols to ensure that
670 security personnel of the emergency department, if any, receive training appropriate to the populations
671 served by the emergency department, which may include training based on a trauma-informed approach
672 in identifying and safely addressing situations involving patients or other persons who pose a risk of harm
673 to themselves or others due to mental illness or substance abuse or who are experiencing a mental health
674 crisis;

675 23. Shall require that each hospital establish a protocol requiring that, before a health care provider
676 arranges for air medical transportation services for a patient who does not have an emergency medical
677 condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized
678 representative with written or electronic notice that the patient (i) may have a choice of transportation by
679 an air medical transportation provider or medically appropriate ground transportation by an emergency
680 medical services provider and (ii) will be responsible for charges incurred for such transportation in the
681 event that the provider is not a contracted network provider of the patient's health insurance carrier or such
682 charges are not otherwise covered in full or in part by the patient's health insurance plan;

683 24. Shall establish an exemption from the requirement to obtain a license to add temporary beds
684 in an existing hospital or nursing home, including beds located in a temporary structure or satellite location
685 operated by the hospital or nursing home, provided that the ability remains to safely staff services across
686 the existing hospital or nursing home, (i) for a period of no more than the duration of the Commissioner's
687 determination plus 30 days when the Commissioner has determined that a natural or man-made disaster
688 has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to
689 a shortage of hospital or nursing home beds or (ii) for a period of no more than the duration of the
690 emergency order entered pursuant to § 32.1-13 or 32.1-20 plus 30 days when the Board, pursuant to §
691 32.1-13, or the Commissioner, pursuant to § 32.1-20, has entered an emergency order for the purpose of

692 suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease
693 or other danger to the public life and health;

694 25. Shall establish protocols to ensure that any patient scheduled to receive an elective surgical
695 procedure for which the patient can reasonably be expected to require outpatient physical therapy as a
696 follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical
697 therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to
698 being discharged from the hospital;

699 26. Shall permit nursing home staff members who are authorized to possess, distribute, or
700 administer medications to residents to store, dispense, or administer cannabis oil to a resident who has
701 been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of §~~
702 ~~54.1-3408.3 and has registered with the Board of Pharmacy § 4.1-1601;~~

703 27. Shall require each hospital with an emergency department to establish a protocol for the
704 treatment and discharge of individuals experiencing a substance use-related emergency, which shall
705 include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-
706 related emergencies to identify medical interventions necessary for the treatment of the individual in the
707 emergency department and (ii) recommendations for follow-up care following discharge for any patient
708 identified as having a substance use disorder, depression, or mental health disorder, as appropriate, which
709 may include, for patients who have been treated for substance use-related emergencies, including opioid
710 overdose, or other high-risk patients, (a) the dispensing of naloxone or other opioid antagonist used for
711 overdose reversal pursuant to subsection X of § 54.1-3408 at discharge or (b) issuance of a prescription
712 for and information about accessing naloxone or other opioid antagonist used for overdose reversal,
713 including information about accessing naloxone or other opioid antagonist used for overdose reversal at a
714 community pharmacy, including any outpatient pharmacy operated by the hospital, or through a
715 community organization or pharmacy that may dispense naloxone or other opioid antagonist used for
716 overdose reversal without a prescription pursuant to a statewide standing order. Such protocols may also
717 provide for referrals of individuals experiencing a substance use-related emergency to peer recovery

718 specialists and community-based providers of behavioral health services, or to providers of
719 pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses;

720 28. During a public health emergency related to COVID-19, shall require each nursing home and
721 certified nursing facility to establish a protocol to allow each patient to receive visits, consistent with
722 guidance from the Centers for Disease Control and Prevention and as directed by the Centers for Medicare
723 and Medicaid Services and the Board. Such protocol shall include provisions describing (i) the conditions,
724 including conditions related to the presence of COVID-19 in the nursing home, certified nursing facility,
725 and community, under which in-person visits will be allowed and under which in-person visits will not be
726 allowed and visits will be required to be virtual; (ii) the requirements with which in-person visitors will
727 be required to comply to protect the health and safety of the patients and staff of the nursing home or
728 certified nursing facility; (iii) the types of technology, including interactive audio or video technology,
729 and the staff support necessary to ensure visits are provided as required by this subdivision; and (iv) the
730 steps the nursing home or certified nursing facility will take in the event of a technology failure, service
731 interruption, or documented emergency that prevents visits from occurring as required by this subdivision.
732 Such protocol shall also include (a) a statement of the frequency with which visits, including virtual and
733 in-person, where appropriate, will be allowed, which shall be at least once every 10 calendar days for each
734 patient; (b) a provision authorizing a patient or the patient's personal representative to waive or limit
735 visitation, provided that such waiver or limitation is included in the patient's health record; and (c) a
736 requirement that each nursing home and certified nursing facility publish on its website or communicate
737 to each patient or the patient's authorized representative, in writing or via electronic means, the nursing
738 home's or certified nursing facility's plan for providing visits to patients as required by this subdivision;

739 29. Shall require each hospital, nursing home, and certified nursing facility to establish and
740 implement policies to ensure the permissible access to and use of an intelligent personal assistant provided
741 by a patient, in accordance with such regulations, while receiving inpatient services. Such policies shall
742 ensure protection of health information in accordance with the requirements of the federal Health
743 Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended. For the
744 purposes of this subdivision, "intelligent personal assistant" means a combination of an electronic device

745 and a specialized software application designed to assist users with basic tasks using a combination of
746 natural language processing and artificial intelligence, including such combinations known as "digital
747 assistants" or "virtual assistants";

748 30. During a declared public health emergency related to a communicable disease of public health
749 threat, shall require each hospital, nursing home, and certified nursing facility to establish a protocol to
750 allow patients to receive visits from a rabbi, priest, minister, or clergy of any religious denomination or
751 sect consistent with guidance from the Centers for Disease Control and Prevention and the Centers for
752 Medicare and Medicaid Services and subject to compliance with any executive order, order of public
753 health, Department guidance, or any other applicable federal or state guidance having the effect of limiting
754 visitation. Such protocol may restrict the frequency and duration of visits and may require visits to be
755 conducted virtually using interactive audio or video technology. Any such protocol may require the person
756 visiting a patient pursuant to this subdivision to comply with all reasonable requirements of the hospital,
757 nursing home, or certified nursing facility adopted to protect the health and safety of the person, patients,
758 and staff of the hospital, nursing home, or certified nursing facility; and

759 31. Shall require that every hospital that makes health records, as defined in § 32.1-127.1:03, of
760 patients who are minors available to such patients through a secure website shall make such health records
761 available to such patient's parent or guardian through such secure website, unless the hospital cannot make
762 such health record available in a manner that prevents disclosure of information, the disclosure of which
763 has been denied pursuant to subsection F of § 32.1-127.1:03 or for which consent required in accordance
764 with subsection E of § 54.1-2969 has not been provided.

765 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and
766 certified nursing facilities may operate adult day care centers.

767 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for
768 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot
769 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to
770 be contaminated with an infectious agent, those hemophiliacs who have received units of this
771 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot

772 that is known to be contaminated shall notify the recipient's attending physician and request that he notify
773 the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return
774 receipt requested, each recipient who received treatment from a known contaminated lot at the individual's
775 last known address.

776 E. Hospitals in the Commonwealth may enter into agreements with the Department of Health for
777 the provision to uninsured patients of naloxone or other opioid antagonists used for overdose reversal.

778 **§ 32.1-162.6:1. Possession or administration of cannabis oil.**

779 Hospice and hospice facility employees who are authorized to possess, distribute, or administer
780 medications to patients shall be permitted to store, dispense, or administer cannabis oil to a patient who
781 has been issued a valid written certification for the use of cannabis oil in accordance with ~~subsection B of~~
782 ~~§ 54.1-3408.3 and has registered with the Board of Pharmacy § 4.1-1601.~~

783 **§ 40.1-27.4. Discipline for employee's medicinal use of cannabis oil prohibited.**

784 A. As used in this section, "cannabis oil" means the same as that term is defined in ~~§ 54.1-3408.3~~
785 4.1-1600.

786 B. No employer shall discharge, discipline, or discriminate against an employee for such
787 employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for
788 the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease pursuant to
789 ~~§ 54.1-3408.3~~ 4.1-1601.

790 C. Notwithstanding the provisions of subsection B, nothing in this section shall (i) restrict an
791 employer's ability to take any adverse employment action for any work impairment caused by the use of
792 cannabis oil or to prohibit possession during work hours, (ii) require an employer to commit any act that
793 would cause the employer to be in violation of federal law or that would result in the loss of a federal
794 contract or federal funding, or (iii) require any defense industrial base sector employer or prospective
795 employer, as defined by the U.S. Cybersecurity and Infrastructure Security Agency, to hire or retain any
796 applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of 50 ng/ml for a urine
797 test or 10 pg/mg for a hair test.

798 **§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.**

799 A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial
800 motor vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or town
801 attorney may prosecute such a case.

802 Upon the prosecution of a person for a violation of this section, ownership or occupancy of the
803 vehicle in which marijuana was found shall not create a presumption that such person either knowingly or
804 intentionally possessed such marijuana.

805 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation
806 of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited
807 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations
808 of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

809 B. Any violation of this section shall be charged by summons. A summons for a violation of this
810 section may be executed by a law-enforcement officer when such violation is observed by such officer.
811 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the
812 uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs
813 shall be assessed for violations of this section. A person's criminal history record information as defined
814 in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and
815 records of such charges or judgments shall not be reported to the Central Criminal Records Exchange;
816 however, such violation shall be reported to the Department of Motor Vehicles and shall be included on
817 such individual's driving record.

818 C. The procedure for appeal and trial of any violation of this section shall be the same as provided
819 by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be
820 as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be
821 required to prove its case beyond a reasonable doubt.

822 D. The provisions of this section shall not apply to members of state, federal, county, city, or town
823 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
824 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
825 necessary for the performance of their duties.

826 E. The provisions of this section involving marijuana in the form of cannabis products as that term
827 is defined in § ~~54.1-3408.3~~ 4.1-1600 shall not apply to any person who possesses such cannabis product
828 pursuant to a valid written certification issued by a practitioner in the course of his professional practice
829 pursuant to § ~~54.1-3408.3~~ 4.1-1601 for treatment or to alleviate the symptoms of (i) the person's diagnosed
830 condition or disease, (ii) if such person is the parent or guardian of a minor or of a vulnerable adult as
831 defined in § 18.2-369, such minor's or vulnerable adult's diagnosed condition or disease, or (iii) if such
832 person has been designated as a registered agent pursuant to § ~~54.1-3408.3~~ 4.1-1601, the diagnosed
833 condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of a
834 vulnerable adult as defined in § 18.2-369, such minor's or vulnerable adult's diagnosed condition or
835 disease.

836 **§ 54.1-2522.1. (Effective until July 1, 2027) Requirements of practitioners.**

837 A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized
838 pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered
839 with the Prescription Monitoring Program by the Department of Health Professions.

840 B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has
841 delegated authority to access information in the possession of the Prescription Monitoring Program
842 pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a human patient that
843 includes the prescribing of opioids anticipated at the onset of treatment to last more than seven consecutive
844 days, request information from the Director for the purpose of determining what, if any, other covered
845 substances are currently prescribed to the patient. In addition, any prescriber who holds a special
846 identification number from the Drug Enforcement Administration authorizing the prescribing of
847 controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution
848 of a treatment agreement with the patient, request information from the Director for the purpose of
849 determining what, if any, other covered substances the patient is currently being prescribed. Nothing in
850 this section shall prohibit prescribers from making additional periodic requests for information from the
851 Director as may be required by routine prescribing practices.

852 C. A prescriber shall not be required to meet the provisions of subsection B if:

- 853 1. The opioid is prescribed to a patient currently receiving hospice or palliative care;
- 854 2. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;
- 855 3. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility
- 856 that uses a sole source pharmacy;
- 857 4. The Prescription Monitoring Program is not operational or available due to temporary
- 858 technological or electrical failure or natural disaster; or
- 859 5. The prescriber is unable to access the Prescription Monitoring Program due to emergency or
- 860 disaster and documents such circumstances in the patient's medical record.

861 D. Prior to issuing a written certification for the use of cannabis oil in accordance with ~~§ 54.1-~~
862 ~~3408.3~~ 4.1-1601, a practitioner shall request information from the Director for the purpose of determining
863 what, if any, other covered substances have been dispensed to the patient.

864 **§ 54.1-2522.1. (Effective July 1, 2027) Requirements of practitioners.**

865 A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized
866 pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered
867 with the Prescription Monitoring Program by the Department of Health Professions.

868 B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating
869 a new course of treatment to a human patient that includes the prescribing of benzodiazepine or an opiate
870 anticipated at the onset of treatment to last more than 90 consecutive days, request information from the
871 Director for the purpose of determining what, if any, other covered substances are currently prescribed to
872 the patient. In addition, any prescriber who holds a special identification number from the Drug
873 Enforcement Administration authorizing the prescribing of controlled substances approved for use in
874 opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient,
875 request information from the Director for the purpose of determining what, if any, other covered
876 substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from
877 making additional periodic requests for information from the Director as may be required by routine
878 prescribing practices.

879 C. The Secretary of Health and Human Resources may identify and publish a list of
880 benzodiazepines or opiates that have a low potential for abuse by human patients. Prescribers who
881 prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of
882 subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the
883 course of treatment arises from pain management relating to dialysis or cancer treatments.

884 D. Prior to issuing a written certification for the use of cannabis oil in accordance with ~~§ 54.1-~~
885 ~~3408.3~~ 4.1-1601, a practitioner shall request information from the Director for the purpose of determining
886 what, if any, other covered substances have been dispensed to the patient.

887 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

888 A. Any person shall be regarded as practicing the healing arts who actually engages in such
889 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
890 to the public in any manner a readiness to practice or who uses in connection with his name the words or
891 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
892 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
893 to heal, cure or relieve those suffering from any injury, deformity or disease.

894 Signing a birth or death certificate, or signing any statement certifying that the person so signing
895 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
896 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
897 practicing the healing arts within the meaning of this chapter except where persons other than physicians
898 are required to sign birth certificates.

899 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
900 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
901 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
902 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
903 defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse.
904 However, nothing in this subsection shall prevent a person from including in any advertisement that such

905 person is registered with the Board of ~~Pharmacy~~ Directors of the Virginia Cannabis Control Authority to
906 issue written certifications for the use of cannabis products, as defined in § ~~54.1-3408.3~~ 4.1-1600.

907 **§ 54.1-3408.3. Certification for use of cannabis for treatment.**

908 A. As used in this section: ~~"Botanical, "botanical~~ "botanical cannabis," ~~means cannabis that is composed~~
909 ~~wholly of usable cannabis from the same parts of the same chemovar of cannabis plant~~ "cannabis oil,"
910 "cannabis product," and "practitioner" mean the same as those terms are defined in § 4.1-1600.

911 ~~"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include~~
912 ~~industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor~~
913 ~~pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains no more than 10~~
914 ~~milligrams of delta-9 tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as~~
915 ~~defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it~~
916 ~~has been grown and processed in the Commonwealth by a registered industrial hemp processor and~~
917 ~~acquired and formulated by a pharmaceutical processor.~~

918 ~~"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered~~
919 ~~with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical~~
920 ~~cannabis.~~

921 ~~"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-~~
922 ~~162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home~~
923 ~~health services, private provider licensed by the Department of Behavioral Health and Developmental~~
924 ~~Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility~~
925 ~~licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.~~

926 ~~"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine,~~
927 ~~a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the~~
928 ~~Board of Medicine and the Board of Nursing.~~

929 ~~"Registered agent" means an individual designated by a patient who has been issued a written~~
930 ~~certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by~~
931 ~~such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.~~

932 ~~"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has~~
933 ~~been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber~~
934 ~~produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation~~
935 ~~of the mature stalks; or (iii) oil or cake made from the seeds of the plant.~~

936 B. A practitioner in the course of his professional practice may issue a written certification for the
937 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
938 determined by the practitioner to benefit from such use in accordance with the provisions of § 4.1-1601.
939 ~~The practitioner shall use his professional judgment to determine the manner and frequency of patient care~~
940 ~~and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes~~
941 ~~the delivery of patient care through real time interactive audio visual technology. If a practitioner~~
942 ~~determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written~~
943 ~~certification shall specifically authorize such dispensing. If not specifically included on the initial written~~
944 ~~certification, authorization for botanical cannabis may be communicated verbally or in writing to the~~
945 ~~pharmacist at the time of dispensing.~~

946 C. ~~The written certification shall be on a form provided by the Board of Pharmacy. Such written~~
947 ~~certification shall contain the name, address, and telephone number of the practitioner; the name and~~
948 ~~address of the patient issued the written certification; the date on which the written certification was made;~~
949 ~~and the signature or authentic electronic signature of the practitioner. Such written certification issued~~
950 ~~pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner~~
951 ~~provides in such written certification an earlier expiration. A written certification shall not be issued to a~~
952 ~~patient by more than one practitioner during any given time period.~~

953 D. ~~No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a~~
954 ~~certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's~~
955 ~~diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing~~
956 ~~in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly~~
957 ~~evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for~~
958 ~~evaluating or treating medical conditions.~~

959 E. A practitioner who issues a written certification to a patient pursuant to this section shall register
960 with the Board and shall hold sufficient education and training to exercise appropriate professional
961 judgment in the certification of patients. The Board shall not limit the number of patients to whom a
962 practitioner may issue a written certification. The Board may report information to the applicable licensing
963 board on unusual patterns of certifications issued by a practitioner.

964 F. No patient shall be required to physically present the written certification after the initial
965 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
966 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an
967 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
968 shall electronically transmit, on a monthly basis, all new written certifications received by the
969 pharmaceutical processor or cannabis dispensing facility to the Board.

970 G. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
971 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
972 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
973 register with the Board. The Board may set a limit on the number of patients for whom any individual is
974 authorized to act as a registered agent.

975 H. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing
976 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility,
977 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
978 administer medications, may accept delivery of the cannabis product on behalf of a patient or resident for
979 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product
980 to the patient or resident as necessary.

981 I. Information obtained under the registration process shall be confidential and shall not be subject
982 to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
983 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
984 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
985 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific

986 ~~violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing~~
987 ~~patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a~~
988 ~~pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a~~
989 ~~registered agent, but only with respect to information related to such patient.~~

990 **§ 59.1-200. Prohibited practices.**

991 A. The following fraudulent acts or practices committed by a supplier in connection with a
992 consumer transaction are hereby declared unlawful:

- 993 1. Misrepresenting goods or services as those of another;
- 994 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 995 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
996 services, with another;
- 997 4. Misrepresenting geographic origin in connection with goods or services;
- 998 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,
999 or benefits;
- 1000 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or
1001 model;
- 1002 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
1003 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"
1004 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,
1005 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,
1006 imperfects or "not first class";
- 1007 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
1008 at the price or upon the terms advertised.

1009 In any action brought under this subdivision, the refusal by any person, or any employee, agent,
1010 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
1011 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall
1012 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods

1013 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount
1014 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer
1015 did in fact have or reasonably expected to have at least such quantity or amount for sale;

1016 9. Making false or misleading statements of fact concerning the reasons for, existence of, or
1017 amounts of price reductions;

1018 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or
1019 parts installed;

1020 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
1021 or bill for merchandise or services previously ordered;

1022 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
1023 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
1024 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
1025 goods or services advertised or offered for sale;

1026 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
1027 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
1028 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or
1029 under federal statutes or regulations;

1030 13a. Failing to provide to a consumer, or failing to use or include in any written document or
1031 material provided to or executed by a consumer, in connection with a consumer transaction any statement,
1032 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.
1033 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection
1034 with the consumer transaction;

1035 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in
1036 connection with a consumer transaction;

1037 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
1038 3.2-6516, or 3.2-6519 is a violation of this chapter;

1039 16. Failing to disclose all conditions, charges, or fees relating to:

1040 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
1041 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
1042 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
1043 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
1044 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
1045 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for
1046 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the
1047 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund
1048 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not
1049 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for
1050 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested
1051 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the
1052 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or
1053 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

1054 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the
1055 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
1056 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of
1057 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the
1058 agreement;

1059 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in
1060 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's
1061 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within
1062 60 days of receiving overpayments. If the credit balance information is incorporated into statements of
1063 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is
1064 required;

- 1065** 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
- 1066** connection with a consumer transaction, failing to adhere to the terms and conditions of such an
- 1067** agreement;
- 1068** 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 1069** 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1
- 1070** et seq.);
- 1071** 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1
- 1072** et seq.);
- 1073** 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-
- 1074** 207.17 et seq.);
- 1075** 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 1076** 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-
- 1077** 424 et seq.);
- 1078** 24. Violating any provision of § 54.1-1505;
- 1079** 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,
- 1080** Chapter 17.6 (§ 59.1-207.34 et seq.);
- 1081** 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 1082** 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 1083** 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 1084** 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
- 1085** seq.);
- 1086** 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40
- 1087** et seq.);
- 1088** 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 1089** 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 1090** 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 1091** 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

- 1092** 35. Using the consumer's social security number as the consumer's account number with the
1093 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
1094 with the consumer's social security number;
- 1095** 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 1096** 37. Violating any provision of § 8.01-40.2;
- 1097** 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 1098** 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 1099** 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 1100** 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
1101 59.1-525 et seq.);
- 1102** 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 1103** 43. Violating any provision of § 59.1-443.2;
- 1104** 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 1105** 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 1106** 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 1107** 47. Violating any provision of § 18.2-239;
- 1108** 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 1109** 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
1110 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
1111 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
1112 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
1113 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
1114 products that are used, secondhand or "seconds";
- 1115** 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 1116** 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 1117** 52. Violating any provision of § 8.2-317.1;
- 1118** 53. Violating subsection A of § 9.1-149.1;

1119 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
1120 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
1121 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
1122 which defective drywall has been permanently installed or affixed;

1123 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
1124 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-
1125 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
1126 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
1127 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

1128 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

1129 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

1130 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

1131 59. Violating any provision of subsection E of § 32.1-126;

1132 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession
1133 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

1134 61. Violating any provision of § 2.2-2001.5;

1135 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

1136 63. Violating any provision of § 6.2-312;

1137 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

1138 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

1139 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

1140 67. Knowingly violating any provision of § 8.01-27.5;

1141 68. Failing to make available a conspicuous online option to cancel a recurring purchase of a good
1142 or service as required by § 59.1-207.46;

1143 69. Selling or offering for sale to a person younger than 21 years of age any substance intended
1144 for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
1145 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and

1146 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
1147 permitted under ~~Article 4.2 of Chapter 34.16~~ (§ 4.1-1600 et seq.) of Title ~~54.1 of the Code of Virginia~~ 4.1;

1148 70. Selling or offering for sale any substance intended for human consumption, orally or by
1149 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
1150 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
1151 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons
1152 younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such
1153 substance that constitutes a single serving, and (d) the total percentage and milligrams of
1154 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that
1155 are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an
1156 independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International
1157 Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol
1158 concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the
1159 substance originates. This subdivision shall not (i) apply to products that are approved for marketing by
1160 the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or
1161 (ii) be construed to prohibit any conduct permitted under ~~Article 4.2 of Chapter 34.16~~ (§ 4.1-1600 et seq.)
1162 of Title ~~54.1 of the Code of Virginia~~ 4.1;

1163 71. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as
1164 defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing
1165 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; and

1166 72. Selling or offering for sale any substance intended for human consumption, orally or by
1167 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container
1168 or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined
1169 in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a
1170 manufacturer, processor, packer, or distributor of a product intended for human consumption other than
1171 the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or
1172 distribute such substance.

1173 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
1174 lease solely by reason of the failure of such contract or lease to comply with any other law of the
1175 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
1176 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such
1177 contract or lease.

1178 **§ 63.2-1803.01. Possession or administration of cannabis oil.**

1179 Assisted living facility staff members who are authorized to possess, distribute, or administer
1180 medications to residents in accordance with the facility's written plan for medication management shall
1181 be permitted to store, dispense, or administer cannabis oil to a resident who has been issued a valid written
1182 certification for the use of cannabis oil in accordance with ~~subsection B of § 54.1-3408.3~~ 4.1-1601 and
1183 has registered with the Board of ~~Pharmacy~~ Directors of the Virginia Cannabis Control Authority.

1184 **2. That Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of**
1185 **Virginia is repealed.**

1186 **3. That the twenty-first enactment of Chapter 550 and the twenty-first enactment of Chapter 551 of**
1187 **the Acts of Assembly of 2021, Special Session I, are repealed.**

1188 **4. That the Regulations Governing Pharmaceutical Processors (18VAC110-60) as promulgated or**
1189 **amended by the Board of Pharmacy prior to July 1, 2023, shall remain in full force and effect and**
1190 **shall be administered by the Virginia Cannabis Control Authority (the Authority) until the Board**
1191 **of Directors (the Board) of the Authority promulgates regulations to implement the provisions of**
1192 **this act, which shall model, to the greatest extent practicable, the Regulations Governing**
1193 **Pharmaceutical Processors (18VAC110-60) promulgated by the Board of Pharmacy. With the**
1194 **exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process**
1195 **Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant**
1196 **thereto shall apply to the Board's initial adoption of regulations to implement the provisions of this**
1197 **act. The Authority shall be vested with all powers and duties held by the Board of Pharmacy prior**
1198 **to July 1, 2023, in its administration of the provisions set forth in § 54.1-3408.3 of the Code of**
1199 **Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5 through 54.1-3442.8) of Chapter 34 of**

1200 Title 54.1 of the Code of Virginia, as repealed by this act, and any regulations promulgated pursuant
1201 thereto.

1202 5. That any valid, active permits, certifications, and registrations issued by the Board of Pharmacy
1203 pursuant to § 54.1-3408.3 of the Code of Virginia, as amended by this act, Article 4.2 (§§ 54.1-3442.5
1204 through 54.1-3442.8) of Chapter 34 of Title 54.1 of the Code of Virginia, as repealed by this act, or
1205 regulations promulgated pursuant thereto prior to July 1, 2023, shall remain valid until their
1206 expiration date and be considered to have been issued by the Board of Directors of the Virginia
1207 Cannabis Control Authority.

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