



VIRGINIA HOSPITAL & HEALTHCARE ASSOCIATION

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Ten Things Health Care Administrators Need to Know as New Virginia Laws Take Effect July 1, 2017

Legislation approved by the 2017 Virginia General Assembly, and signed into law by the Governor, has resulted in a number of changes to state laws affecting hospitals and health systems that become effective July 1, 2017 (or sooner as specified). Health care administrators and their teams should be aware of the **10 bills listed below.**

Regulations for Prescribing of Opioids: [HB2167](#) and [SB1180](#) direct the Board of Medicine and Board of Dentistry to establish regulations for the prescribing of opioids and products containing buprenorphine. The legislation was effective as of March 3, 2017. The Board of Medicine adopted regulations on Feb. 16, 2017 that became effective March 15, 2017. Additional information about these regulations can be found [here](#). The regulations specify that opioid prescriptions for acute pain, or upon discharge from an emergency department, are limited to a seven-day supply, unless extenuating circumstances are clearly documented in the medical record. An opioid prescribed as part of treatment for a surgical procedure is limited to no more than 14 consecutive days within the immediate perioperative period, unless extenuating circumstances are clearly documented in the medical record. The regulations also include guidelines for use of opioids in management of chronic pain and prescribing of buprenorphine for addiction treatment. The Board of Dentistry has approved similar regulations that are in the final stages of the regulatory process. In addition, although not required by the new law, the Board of Nursing has adopted regulations identical to the Board of Medicine regulations that will govern nurse practitioners with prescriptive authority. (Va. Code §§ 54.1-2708.4, 54.1-2928.2)

PMP Checks for Opioid Prescriptions: [HB1885](#) and [SB1232](#) require prescribers to request information about a patient from the Prescription Monitoring Program (PMP) upon initiating a new course of treatment that includes the prescribing of opioids anticipated, at the onset of treatment, to last more than seven consecutive days, with exceptions for inpatients, nursing homes, and hospice and palliative care. A PMP check is also required where an opioid is prescribed as part of treatment for a surgical or invasive procedure and such prescription is for more than 14 consecutive days. Current law requires a PMP check upon initiating a new course of treatment that includes the prescribing of opioids anticipated, at the onset of treatment, to last more than 14 consecutive days and exempts the prescriber from this requirement if the opioid is prescribed as part of a course of treatment for a surgical or invasive procedure and such prescription is not refillable. The bill extends the sunset for this requirement from July 1, 2019 to July 1, 2022. (Va. Code § 54.1-2522.1)

Mandatory Electronic Prescribing for Opiates: [HB2165](#) and [SB1230](#) require that, beginning July 1, 2020, a prescription for any controlled substance containing an opiate shall be issued as an electronic prescription and prohibits a pharmacist, after that date, from dispensing a controlled substance that contains an opiate unless the prescription is issued as an electronic prescription. (Va. Code §§ 54.1-3401, 54.1-3408.02, and 54.1-3410)

Psychiatric Referral Communications: [HB1777](#) requires the Board of Health to promulgate regulations to require each hospital that provides inpatient psychiatric services to establish a protocol that (i) requires, for any refusal to admit a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by the referring physician, and (ii) prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician. (Va. Code § 32.1-127)

Medical Record Requests Copy Fees: [HB1689](#) modifies the provisions for fees that may be charged by a health care provider responding to an attorney request for copies of medical records or a subpoena. The legislation retains the fees for paper copies, establishes a reduced per page fee for electronic copies up to a cap, increases the search and handling fee for all requests, and establishes a fee for reproduction of X-ray and imaging studies. The legislation also permits the requestor to specify the format for production of records, requires the health care provider to specify the most cost-effective means of production, and prohibits withholding of production solely on the grounds of nonpayment. (Va. Code §§ 8.01-413, 32.1-127.1:03, and 54.1-111)

DDNR Reciprocity: [HB2153](#) provides that a Durable Do Not Resuscitate (DDNR) order or other order regarding life-sustaining treatment executed in accordance with the laws of another state in which such order was executed shall be deemed to be valid and shall be given full effect in the Commonwealth. (Va. Code § 54.1-2987.1)

Psychiatric Admissions and Capacity Determinations: [HB1548](#) and [SB1511](#) clarify that if a patient has executed a mental health advance directive, the agent may exercise such authority to consent to the patient's admission to a mental health facility for treatment after a determination has been made by a behavioral health professional that the patient is incapable of making an informed decision. The agent has the authority to make a health care decision over the objection of the patient if any licensed behavioral health professional familiar with the patient confirms in writing that, at the time of executing the advance directive, the patient was capable of making an informed decision. Current law requires an attestation from the patient's actual attending physician or a licensed clinical psychologist. (Va. Code §§ 54.1-2983.2 and 54.1-2986.2)

Telemedicine/Telepsychiatry and Prescribing: [HB1767](#) and [SB1009](#) clarify that a prescriber who establishes a physician-patient relationship through an appropriate physical examination performed using telemedicine may prescribe Scheduled II through VI controlled substances. The legislation also clarifies that prescribing controlled substances must be in compliance with federal laws regarding the practice of telemedicine, including maintenance of a required controlled substance registration, and authorizes the Board of Pharmacy to provide such registration to Community Services Boards. The law includes an emergency clause and requires the Board of Pharmacy to promulgate regulations to implement the provisions of the law to be effective within 280 days of its enactment. (Va. Code §§ 54.1-3303 and 54.1-3423)

Release of HIV Test Results: [HB1840](#) clarifies that information about the results of tests to determine infection with human immunodeficiency virus (HIV) shall be released only to persons or entities permitted or authorized to obtain protected health information under any applicable federal or state law. This change has the effect of conforming state law to be consistent with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. (Va. Code § 32.1-36.1)

Health Care Assault: [HB1921](#) and [SB973](#) extends current penalties for assault of a health care provider (Class 1 misdemeanor) to health care providers outside of the emergency room to the entire hospital, regardless of whether the health care provider is performing duties as an emergency health care provider. The legislation also directs the Department of Health to establish guidelines for the publication of penalties and for training of providers in violence prevention programs. (Va. Code § 18.2-57)

Hospitals and health systems should take steps now to prepare for implementation of these new laws as of the July 1, 2017 effective date. Regulatory action on these new laws may be forthcoming.

Please note that this is only a summary of the legislation identified. It is not a complete description of all requirements of the laws and does not represent a compendium of all legislation affecting hospitals and health systems. Further, it does not constitute legal advice or interpretation. If you have questions about interpretation or implementation of these laws in your organization, you should contact your legal counsel for further guidance.

