

Virginia Code Commission  
Meeting Materials  
October 21, 2019

# VIRGINIA CODE COMMISSION

Monday, September 16, 2019 - 10:00 a.m.  
Richmond, Virginia 23219

## Minutes

Draft

**Members Present:** John S. Edwards; James A. Leftwich, Jr.; Nicole S. Cheuk; Rita Davis; Leslie L. Lilley; Ryan T. McDougale; Thomas M. Moncure, Jr.; Christopher R. Nolen; Charles S. Sharp; Samuel T. Towell; Malfourd W. Trumbo; Mark Vucci

**Members Absent:** none

**Staff Present:** David Barry, Brooks Braun, Emma Buck, Scott Meacham, Charles Quagliato, Karen Perrine, Anne Bloomsburg, Lilli Hausenfluck, Division of Legislative Services (DLS)

**Others Present:** Melissa Velazquez, Department of Motor Vehicles; Michael Skiffington, Department of Mines, Minerals and Energy

**Call to order:** Senator Edwards, chair, called the meeting to order at 10:00 a.m.

**Approval of minutes:** The minutes of the August 19, 2019, meeting of the Commission, as printed and distributed to the members, were approved without objection.

### **Review of codified sections currently shown as "Not Set Out":**

As part of the Commission's 2019 work plan and ongoing review of sections that appear in the Code of Virginia with only a section number, referred to as "not set out," DLS staff presented sections for consideration by the Commission to be set out in the Code of Virginia. The text of these sections does not appear in the Code based on previous decisions of the Code Commission.

Mark Vucci reviewed the standard for inclusion of a section in the Code of Virginia. Under § 30-148 of the Code of Virginia, the Commission has the responsibility to codify and incorporate into the Code all "general and permanent statutes." Otherwise, the section is not set out, which means that the section number and catchline appear in the Code, but the text of the section does not. Lilli Hausenfluck provided general background regarding why sections were not set out, and now in the age of information, the emphasis on transparency.

#### **Title 19.2 - Criminal Procedure:**

§ 19.2-309.1, Sentence of confinement to jail farms maintained by the Cities of Danville, Martinsville and Newport News: Charles Quagliato presented § 19.2-309.1 and recommended that the section be set out. He stated that Danville and Martinsville still operate jail farms but the jail in Newport News currently is closed. As the closure may not be permanent, Mr. Quagliato recommended leaving Newport News in the section. Motion by Senator Edwards to set out the section under the Commission's authority was duly seconded and passed, with Mr. Nolen and Mr. Moncure voting no.

#### **Title 46.2 - Motor Vehicles:**

Emma Buck presented §§ 46.2-341.2, 46.2-1106, 46.2-1138, 46.2-1235, 46.2-1580, and 46.2-1582.

§ 46.2-341.2, Statement of intent and purpose: Ms. Buck explained that this section states the intent of the Commercial Driver's License Act; however, that intent is accomplished through the substantive provisions of the other sections in the act. The recommendation is to repeal this section, which does not create substantive law, in accordance with the Commission's policy not to have purpose or intent sections in the Code of Virginia. The Commission agreed that the second sentence could be repealed; however, a question was raised as to whether repealing the first sentence of the section would impact

federal funding. Melissa Velazquez, Department of Motor Vehicles (DMV), indicated that the department has no concerns with repealing the section. She explained that the department collects the associated fees and passes the funds to the Department of Transportation (VDOT), and that she could not speak for that department. Senator Edwards deferred a decision on this item pending a response from VDOT regarding the necessity of the first sentence for federal funding.

§ 46.2-1106, Bus widths in Arlington County: The recommendation is to set out this section. Although the section is specific to only one locality, the section also addresses the Commonwealth Transportation Board's authority to permit the operation of certain size buses in Arlington County. The Arlington County Attorney's Office advised that the county does not rely on this section and had no objection to setting it out. DMV supports setting out the section as it is difficult for staff and the public to know about it. Ms. Buck reviewed §§ 46.2-1107 and 46.2-1108, which authorize the Commissioner of Highways to permit the operation of certain size buses throughout Virginia. She explained that this authority was transferred from the Commonwealth Transportation Board to the Commissioner in 2013, and the same change should have been made to § 46.2-1106. Senator McDougle asked if there was any reason not to repeal §§ 46.2-1106 and 46.2-1107 in light of the general statute, which is § 46.2-1108. Ms. Velazquez stated that DMV did not object to the repeal.

Senator McDougle moved that the Commission sponsor a bill to repeal §§ 46.2-1106 and 46.2-1107, duly seconded by Mr. Towell. Ms. Davis asked for the language of § 46.2-1107, which was read by Ms. Buck. The motion passed unanimously.

§ 46.2-1138, County ordinances fixing weight limits on roads that have been withdrawn from secondary system: The recommendation is to set out this section. The section is necessary because the Counties of Arlington and Henrico maintain their own secondary roads. The Department of Motor Vehicles had requested that § 46.2-1138 be set out because (i) the Division of Motor Carrier Services refers to that section frequently, (ii) the section is cross-referenced in two other sections of the Code of Virginia, and (iii) DMV issues overweight permits on behalf of other localities. Henrico County and Arlington County have no objection to setting it out. The Commission briefly discussed replacing the names of the counties with a generic description of the county government or withdrawal from secondary system. Upon a motion by Senator Edwards, seconded by Mr. Trumbo, the Commission approved setting out § 46.2-1138, with the technical changes shown in the draft, under the Commission's authority. Mr. Moncure voted no.

§ 46.2-1235, Authority of Chesterfield County law-enforcement personnel to issue tickets: Ms. Buck stated that Chesterfield County reported that the County usually writes tickets based on the Chesterfield County Code of Ordinances rather than this section of the Code of Virginia. After a brief discussion, Mr. Trumbo moved, seconded by Delegate Leftwich, that the Commission approve setting out this section, with technical changes, under the Commission's authority. The motion passed, with Mr. Nolen and Mr. Moncure voting no.

§ 46.2-1580, Legislative findings: Ms. Buck stated that this section is mainly legislative findings and does not create substantive law. Other text in this section is incorrect because the Commissioner of DMV is no longer solely responsible for the enforcement of provisions related to motor vehicle dealer advertising; enforcement is handled by the Motor Vehicle Dealer Board. The last sentence regarding the Consumer Protection Act should be retained, and Ms. Buck recommended moving that sentence to § 46.2-1582 (Enforcement; regulations) as new subsection B. With that amendment to § 46.2-1582, § 46.2-1580 is recommended for repeal. Mr. Towell moved that the Commission sponsor a bill to

repeal § 46.2-1580 and amend § 46.2-1582 as presented by Ms. Buck. The motion was duly seconded by Delegate Leftwich and passed.

**Restructuring of certain sections of the Code of Virginia:** At the August 19, 2019, meeting, the Code Commission considered a proposal to restructure Article 1 (Recounts) of Chapter 8 (Recounts and Contested Elections) of Title 24.2 (Elections), consisting of §§ 24.2-800 through 24.2-802, so that the sections are more cohesive. At that meeting, the Commission requested that Brooks Braun review and report to the Commission whether there was a more appropriate placement for the text that is being moved from § 24.2-802 B, last paragraph, second sentence, and designated as new subsection E in §§ 24.2-801 and 24.2-801.1, given the cross-reference to § 24.2-803. Subsection E states "Commencing upon the filing of the recount, nothing shall prevent the discovery or disclosure of any evidence that could be used pursuant to § 24.2-803 in contesting the results of an election."

Mr. Braun explained the structure of existing law regarding discovery and disclosure in recounts. Section 24.2-802 applies to all elections, and § 24.2-803 addresses contested elections to the General Assembly. The Commission discussed the possible effects and implications of the proposed subsection E. An alternate proposal was made to move the text to be the last sentence of § 24.2-802.2 C, which is where the first sentence of the last paragraph of § 24.2-802 B was moved (lines 628 and 698). Upon a motion by Delegate Leftwich, seconded by Mr. Trumbo, the Commission approved the alternate proposal.

**Recodification of Title 45.1, Mines and Mining:** The DLS recodification team, Scott Meacham and David Barry, presented this item. Mr. Meacham reviewed the revised title outline and provided background information on Title 67, the Virginia Energy Plan. He explained the recommendation to move some sections of existing Title 67 into new Title 45.2 and other sections into other titles of the Code, appropriate for the agencies involved. For example, Chapter 4, Clean Coal Projects, of Title 67 will move to new Article 4 in Chapter 13, Air Pollution Control Board, of Title 10.1, Conservation. Although the Code provisions regarding the plan will no longer be in a separate title, the Department of Mines, Minerals and Energy (DMME) will continue to oversee the plan. Upon a motion by Mr. Vucci, seconded by Mr. Trumbo, the Commission approved the revised outline.

Mr. Meacham provided a handout with revised text to address questions from the August 19 meeting regarding Chapter 5 and other editorial changes made since the meeting: (i) instead of using "rules and regulations," the text will use "regulations" for consistency with current Code of Virginia text; (ii) in § 45.1-161.24, the Board of Coal Mining Examiners is established as a policy board rather than a supervisory board as each is defined in § 2.2-2100 of the Code because the board is not responsible for agency operations; (iii) remove "guidelines" and clarify whether provisions should be in regulation or lessened to "parameters"; (iv) regarding § 45.1-161.57 B, DMME has no concerns with the proposed changes; and (v) in § 45.1-161.57 C, the amount of the fee is changed to \$350 to reflect the budget bill. Mr. Towell inquired whether the change in subsection B creates a gap in licensure so that a mine may be operating unlicensed. Michael Skiffington of DMME will check with appropriate staff at DMME and report back to the Commission.

Next, Mr. Meacham reviewed Chapters 6 (Coal Mining Property, Interests, Adjacent Owners, and Dams) and 9 (Surface Coal Mines).

Chapter 6: Mr. Meacham stated that existing Chapters 14.7 (Rights of Owners of Land Adjacent to Coal Mines), 14.7:2 (Trust for Coal Interests), 14.8 (Emergency Seizure of Coal Properties by Commonwealth), and 18 (Coal Mining Refuse Piles, Water and Silt Retaining Dams) will be

Articles 1 through 4, respectively, of Chapter 6 in new Title 45.2. In § 45.1-161.311:3 A, new clause (i), the Commission modified the proposed text by replacing "at least" with "more than."

Chapter 9: Surface Coal Mines. Upon a question by the Commission, Mr. Meacham will review and clarify § 45.1-161.256 D (line 87); a possible redraft is to use "on each day upon which any person works at such location."

**Other business:** No other business was presented.

**Public comment, adjournment:** Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 12:18 p.m.

**Title 55.1 Recodification  
Clean-up Bill  
Overview of Recommendations**

	<b>Section</b>	<b>Location</b>	<b>Recommendation</b>
<b>1</b>	§ 54.1-2345 Definitions.	Page 1, Line 11	<p>This section includes definitions that are used in Chapter 23.3 of Title 54.1 pertaining to common interest communities and the Common Interest Community Board (CIC Board). The recodification relocated several sections of the Chapter 29 of Title 55 to become an article in Chapter 23 but did not relocate all of the language for the definition of "common interest community"</p> <p>The amendment restores language in the definition of "common interest community" to include only such communities that have at least some lots or units that are residential or occupied for recreational purposes.</p>
<b>2</b>	§ 55.1-1602 Certain covenants of lessee "to pay the rent" and "to pay the taxes."	Page 2, Line 50	<p>HB 2287 and SB 1422, passed during the 2019 Session, replaced all references to "deed of lease" throughout the Code of Virginia with the term "lease."</p> <p>The amendment is technical in nature and replaces the term "deed" with "lease."</p>
<b>3</b>	§ 55.1-1805 Association charges.	Page 3, Line 62	<p>This section pertains to the authority for the CIC Board to take certain actions against a property owners' association (POA) or a common interest community manager (CIC manager). The amendments (i) replace the term "the violator" with the term "an association" to clarify the CIC Board's authority to issue a cease and desist order against an association and (ii) strike the reference to § 54.1-2349 because that section does not grant the CIC Board authority to issue cease and desist orders against a CIC manager.</p>
<b>4</b>	§ 55.1-1808 Contract disclosure statement; right of cancellation.	Page 4, Lines 82, 95, and 96	<p>This section deals with two documents that are provided by a POA prior to settlement; the disclosure packet and update provided to a seller or purchaser and the financial update provided to a settlement agent.</p> <p>The amendments (i) correct a reference in subsection B and (ii) add in subsection D cites to subsection E of § 55.1-1810 and subsection H of § 55.1-1811 to properly reference a settlement agent's ability to request a financial update.</p>

	<b>Section</b>	<b>Location</b>	<b>Recommendation</b>
<b>5</b>	§ 55.1-1810 Fee for discl. packet; professionally managed associations.	Page 10, Line 246	This section deals with the fees that may be charged by a POA that is professionally managed. The same amendments recommended in item 3 are also recommended for this section.
<b>6</b>	§ 55.1-1833 Lien for assessments.	Page 10, Line 254	This section pertains to the lien on any lot that a POA has for unpaid assessments. The recodification moved the term "once perfected" from the beginning of the line to its current location. There was concern that the change in location of the term may have unintended consequences. The amendment restores the term to its previous location.
<b>7</b>	§ 55.1-1904 Association charges.	Page 16, Line 409	This section deals with the authority of the CIC Board to take certain actions against a unit owners' association or a CIC manager. The same amendments recommended in item 3 are also recommended for this section.
<b>8</b>	§ 55.1-1911 Recordation of condominium instruments.	Page 16, Line 411	This section establishes requirements related to the recordation of condominium instruments. The amendment is technical in nature and removes redundant language that is found in the remaining lines of the section.
<b>9</b>	§ 55.1-1919 Assignments of limited common elements; conversion to common element.	Page 17, Lines 431 and 440	<p>This section relates to the assignment of limited elements and their conversion to common elements. The recodification attempted to simplify the wording by changing language in subsection B and subsection C to read "all of the unit owners..." rather than "the unit owner or unit owners of the unit or units concerned..."</p> <p>Concern has been raised that the change may result in the unintended interpretation that all unit owners in a condominium would be required to execute an amendment to the condominium instruments or pay the costs of preparing the amendment, rather than just the unit owners who were specifically concerned. The amendments restore the language.</p>
<b>10</b>	§ 55.1-1937 Termination of condominium.	Page 21, Lines 535 and 547	This section details the process for termination of a condominium. The recodification logically relocated language from one subsection to a new subsection. The relocation of the language created unintended redundancy. The amendment removes the redundancy.

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 54.1-2345, 55.1-1602, 55.1-1805, 55.1-1808, 55.1-1810, 55.1-1833,  
2 55.1-1904, 55.1-1911, 55.1-1919, and 55.1-1937 of the Code of Virginia, relating to recodification  
3 of Title 55; corrections.

4 **Be it enacted by the General Assembly of Virginia:**

5 **1. That §§ 54.1-2345, 55.1-1602, 55.1-1805, 55.1-1808, 55.1-1810, 55.1-1833, 55.1-1904, 55.1-1911,**  
6 **55.1-1919, and 55.1-1937 of the Code of Virginia are amended and reenacted as follows:**

7 **§ 54.1-2345. Definitions.**

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

9 "Association" includes condominium, cooperative, or property owners' associations.

10 "Board" means the Common Interest Community Board.

11 "Common interest community" means real estate subject to a declaration ~~with respect~~ containing  
12 lots, at least some of which are residential or occupied for recreational purposes, and common areas to  
13 which a person, by virtue of the person's ownership of a lot subject to that declaration, is a member of the  
14 association and is obligated to pay assessments of common expenses, provided that for the purposes of  
15 this chapter only, a common interest community does not include any time-share project registered  
16 pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.) or any additional land that is a  
17 part of such registration. "Common interest community" does not include an arrangement described in §  
18 54.1-2345.1.

19 "Common interest community manager" means a person or business entity, including a  
20 partnership, association, corporation, or limited liability company, that, for compensation or valuable  
21 consideration, provides management services to a common interest community.

22 "Declaration" means any instrument, however denominated, recorded among the land records of  
23 the county or city in which the development or any part thereof is located, that either (i) imposes on the  
24 association maintenance or operational responsibilities for the common area as a regular annual  
25 assessment or (ii) creates the authority in the association to impose on lots, or on the owners or occupants



26 of such lots, or on any other entity any mandatory payment of money as a regular annual assessment in  
27 connection with the provision of maintenance or services or both for the benefit of some or all of the lots,  
28 the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or  
29 supplement to the instruments described in this definition.

30 "Governing board" means the governing board of an association, including the executive organ of  
31 a condominium unit owners' association, the executive board of a cooperative proprietary lessees'  
32 association, and the board of directors or other governing body of a property owners' association.

33 "Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown  
34 on a recorded subdivision plat for a development or the boundaries of which are described in the  
35 declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than  
36 a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative.

37 "Management services" means (i) acting with the authority of an association in its business, legal,  
38 financial, or other transactions with association members and nonmembers; (ii) executing the resolutions  
39 and decisions of an association or, with the authority of the association, enforcing the rights of the  
40 association secured by statute, contract, covenant, rule, or bylaw; (iii) collecting, disbursing, or otherwise  
41 exercising dominion or control over money or other property belonging to an association; (iv) preparing  
42 budgets, financial statements, or other financial reports for an association; (v) arranging, conducting, or  
43 coordinating meetings of an association or the governing body of an association; (vi) negotiating contracts  
44 or otherwise coordinating or arranging for services or the purchase of property and goods for or on behalf  
45 of an association; or (vii) offering or soliciting to perform any of the aforesaid acts or services on behalf  
46 of an association.

47 **§ 55.1-1602. Certain covenants of lessee "to pay the rent" and "to pay the taxes."**

48 In a lease, (i) a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the  
49 rent reserved by the lease shall be paid to the lessor, or those entitled under the lessor, in the manner stated  
50 in the ~~deed~~ lease, and (ii) a covenant by the lessee "to pay the taxes" shall have the effect of a covenant  
51 that all the taxes, levies, and assessments upon the demised premises, or upon the lessor on account  
52 thereof, shall be paid by the lessee or those claiming under the lessee.

53           **§ 55.1-1805. Association charges.**

54           Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no  
55 association shall (i) make an assessment or impose a charge against a lot or a lot owner unless the charge  
56 is a fee for services provided or related to use of the common area or (ii) charge a fee related to the  
57 provisions set out in § 55.1-1810 or 55.1-1811 that is not expressly authorized in those sections. Nothing  
58 in this chapter shall be construed to authorize an association or common interest community manager to  
59 charge an inspection fee for an unimproved or improved lot except as provided in § 55.1-1810 or 55.1-  
60 1811. The Common Interest Community Board may assess a monetary penalty for a violation of this  
61 section against any (a) association pursuant to § 54.1-2351 or (b) common interest community manager  
62 pursuant to § 54.1-2349, and may issue a cease and desist order against ~~the violator~~ an association pursuant  
63 to ~~§ 54.1-2349 or 54.1-2352, as applicable.~~

64           **§ 55.1-1808. Contract disclosure statement; right of cancellation.**

65           A. For purposes of this article, unless the context requires a different meaning:

66           "Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized  
67 agent by one of the methods specified in this section.

68           "Purchaser's authorized agent" means any person designated by such purchaser in a ratified real  
69 estate contract for purchase and sale of residential real property or other writing designating such agent.

70           "Receives," "received," or "receiving" the disclosure packet means that the purchaser or  
71 purchaser's authorized agent has received the disclosure packet by one of the methods specified in this  
72 section.

73           "Seller's authorized agent" means a person designated by such seller in a ratified real estate contract  
74 for purchase and sale of residential real property or other writing designating such agent.

75           B. Subject to the provisions of subsection A of § 55.1-1814, an owner selling a lot shall disclose  
76 in the contract that (i) the lot is located within a development that is subject to the Property Owners'  
77 Association Act (§ 55.1-1800 et seq.); (ii) the Property Owners' Association Act (§ 55.1-1800 et seq.)  
78 requires the seller to obtain from the property owners' association an association disclosure packet and  
79 provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the

80 association disclosure packet or being notified that the association disclosure packet will not be available;  
81 (iv) if the purchaser has received the association disclosure packet, the purchaser has a right to request an  
82 update of such disclosure packet in accordance with subsection ~~H~~G of § 55.1-1810 or subsection D of §  
83 55.1-1811, as appropriate; and (v) the right to receive the association disclosure packet and the right to  
84 cancel the contract are waived conclusively if not exercised before settlement.

85 For purposes of clause (iii), the association disclosure packet shall be deemed not to be available  
86 if (a) a current annual report has not been filed by the association with either the State Corporation  
87 Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55.1-1835,  
88 (b) the seller has made a written request to the association that the packet be provided and no such packet  
89 has been received within 14 days in accordance with subsection A of § 55.1-1809, or (c) written notice  
90 has been provided by the association that a packet is not available.

91 C. If the contract does not contain the disclosure required by subsection B, the purchaser's sole  
92 remedy is to cancel the contract prior to settlement.

93 D. The information contained in the association disclosure packet shall be current as of a date  
94 specified on the association disclosure packet prepared in accordance with this section; however, a  
95 disclosure packet update or financial update may be requested in accordance with subsection G or H of §  
96 55.1-1810 or subsection D or E of § 55.1-1811, as appropriate. The purchaser may cancel the contract (i)  
97 within three days after the date of the contract if, on or before the date that the purchaser signs the contract,  
98 the purchaser receives the association disclosure packet, is notified that the association disclosure packet  
99 will not be available, or receives an association disclosure packet that is not in conformity with the  
100 provisions of § 55.1-1809; (ii) within three days after receiving the association disclosure packet if the  
101 association disclosure packet, notice that the association disclosure packet will not be available, or an  
102 association disclosure packet that is not in conformity with the provisions of § 55.1-1809 is hand delivered,  
103 delivered by electronic means, or delivered by a commercial overnight delivery service or the United  
104 States Postal Service, and a receipt is obtained; or (iii) within six days after the postmark date if the  
105 association disclosure packet, notice that the association disclosure packet will not be available, or an  
106 association disclosure packet that is not in conformity with the provisions of § 55.1-1809 is sent to the

107 purchaser by United States mail. The purchaser also may cancel the contract at any time prior to settlement  
108 if the purchaser has not been notified that the association disclosure packet will not be available and the  
109 association disclosure packet is not delivered to the purchaser.

110 Notice of cancellation shall be provided to the lot owner or his agent by one of the following  
111 methods:

112 1. Hand delivery;

113 2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing  
114 in the form of a certificate of service prepared by the sender confirming such mailing;

115 3. Electronic means, provided that the sender retains sufficient proof of the electronic delivery,  
116 which may be in the form of an electronic receipt of delivery, a confirmation that the notice was sent by  
117 facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or

118 4. Overnight delivery using a commercial service or the United States Postal Service.

119 In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of  
120 cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be  
121 returned promptly to the purchaser.

122 E. Whenever any contract is canceled based on a failure to comply with subsection B or D or  
123 pursuant to subsection C, any deposit or escrowed funds shall be returned within 30 days of the  
124 cancellation, unless the parties to the contract specify in writing a shorter period.

125 F. Any rights of the purchaser to cancel the contract provided by this chapter are waived if not  
126 exercised prior to settlement.

127 G. Except as expressly provided in this chapter, the provisions of this section and § 55.1-1809 may  
128 not be varied by agreement, and the rights conferred by this section and § 55.1-1809 may not be waived.

129 H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the  
130 purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent.  
131 Delivery of the disclosure packet may be made by the lot owner or the lot owner's authorized agent.

132 I. If the lot is governed by more than one association, the purchaser's right of cancellation may be  
133 exercised within the required time frames following delivery of the last disclosure packet or resale  
134 certificate.

135 **§ 55.1-1810. Fees for disclosure packet; professionally managed associations.**

136 A. A professionally managed association or its common interest community manager may charge  
137 certain fees as authorized by this section for the inspection of the property, the preparation and issuance  
138 of the disclosure packet required by § 55.1-1809, and for such other services as set out in this section. The  
139 seller or the seller's authorized agent shall specify in writing whether the disclosure packet shall be  
140 delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall  
141 specify the complete contact information for the parties to whom the disclosure packet shall be delivered.

142 B. A reasonable fee may be charged by the preparer as follows:

143 1. For the inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration  
144 and as required to prepare the association disclosure packet, a fee not to exceed \$100;

145 2. For the preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed  
146 \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an  
147 electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the  
148 purchaser, the purchaser's authorized agent, and not more than one other person designated by the  
149 requester. The preparer of the disclosure packet shall provide the disclosure packet directly to the  
150 designated persons. Only one fee shall be charged for the preparation and delivery of the disclosure packet;

151 3. At the option of the seller or the seller's authorized agent, with the consent of the association or  
152 the common interest community manager, for expediting the inspection, preparation, and delivery of the  
153 disclosure packet, an additional expedite fee not to exceed \$50;

154 4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the  
155 disclosure packet, a fee not to exceed \$25 per hard copy;

156 5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery  
157 of the overnight disclosure packet, a fee not to exceed an amount equal to the actual cost paid to a third-  
158 party commercial delivery service; and

159           6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of  
160 establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed  
161 \$50.

162           Except as otherwise provided in subsection E, neither the association nor its common interest  
163 community manager shall require cash, check, certified funds, or credit card payments at the time the  
164 request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the  
165 disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the  
166 lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55.1-  
167 1833, if not paid at settlement or within 60 days of the delivery of the disclosure packet, whichever occurs  
168 first.

169           For purposes of this section, an expedite fee shall be charged only if the inspection and preparation  
170 of delivery of the disclosure packet are completed within five business days of the request for a disclosure  
171 packet.

172           C. No fees other than those specified in this section, and as limited by this section, shall be charged  
173 by the association or its common interest community manager for compliance with the duties and  
174 responsibilities of the association under this chapter. No additional fee shall be charged for access to the  
175 association's or common interest community manager's website. The association or its common interest  
176 community manager shall publish and make available in paper or electronic format, or both, a schedule of  
177 the applicable fees so the seller or the seller's authorized agent will know such fees at the time of requesting  
178 the packet.

179           D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale  
180 of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. The  
181 settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall  
182 be responsible for all costs associated with the preparation and delivery of the association disclosure  
183 packet, except for the costs of any disclosure packet update or financial update, which costs shall be the  
184 responsibility of the requester, payable at settlement. Neither the association nor its common interest

185 community manager shall require cash, check, certified funds, or credit card payments at the time the  
186 request is made for the association disclosure packet.

187 E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are  
188 not collected at settlement and disbursed to the association or the common interest community manager,  
189 all fees, including those costs that would have otherwise been the responsibility of the purchaser or  
190 settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the  
191 lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible  
192 as any other assessment in accordance with the provisions of the declaration and § 55.1-1834. The seller  
193 may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option  
194 offered by the association. The association shall pay the common interest community manager the amount  
195 due from the lot owner within 30 days after invoice.

196 F. The maximum allowable fees charged in accordance with this section shall adjust every five  
197 years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in  
198 the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published  
199 by the Bureau of Labor Statistics of the U.S. Department of Labor.

200 G. If an association disclosure packet has been issued for a lot within the preceding 12-month  
201 period, a person specified in the written instructions of the seller or the seller's authorized agent, including  
202 the seller or the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure  
203 packet update. The requester shall specify whether the disclosure packet update shall be delivered  
204 electronically or in hard copy and shall specify the complete contact information of the parties to whom  
205 the update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written  
206 request.

207 H. The settlement agent may request a financial update. The requester shall specify whether the  
208 financial update shall be delivered electronically or in hard copy and shall specify the complete contact  
209 information of the parties to whom the update shall be delivered. The financial update shall be delivered  
210 within three business days of the written request.

211 I. A reasonable fee for the disclosure packet update or financial update may be charged by the  
212 preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester  
213 may request that the association or the common interest community manager perform an additional  
214 inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to  
215 exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on  
216 the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs of the seller  
217 at settlement. Neither the association nor its common interest community manager, if any, shall require  
218 cash, check, certified funds, or credit card payments at the time the request is made for the disclosure  
219 packet update. The requester may request that the specified update be provided in hard copy or in  
220 electronic form.

221 J. No association or common interest community manager may require the requester to request the  
222 specified update electronically. The seller or the seller's authorized agent shall continue to have the right  
223 to request a hard copy of the specified update in person at the principal place of business of the association.  
224 If the requester asks that the specified update be provided in electronic format, neither the association nor  
225 its common interest community manager may require the requester to pay any fees to use the provider's  
226 electronic network or system. A copy of the specified update shall be provided to the seller or the seller's  
227 authorized agent.

228 K. When an association disclosure packet has been delivered as required by § 55.1-1809, the  
229 association shall, as to the purchaser, be bound by the statements set forth in the disclosure packet as to  
230 the status of the assessment account and the status of the lot with respect to any violation of the declaration,  
231 bylaws, rules and regulations, architectural guidelines, and articles of incorporation, if any, of the  
232 association as of the date of the statement unless the purchaser had actual knowledge that the contents of  
233 the disclosure packet were in error.

234 L. If the association or its common interest community manager has been requested in writing to  
235 furnish the association disclosure packet required by § 55.1-1809, failure to provide the association  
236 disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim  
237 for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or



238 architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer  
239 of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages  
240 sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated  
241 to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association  
242 as to all matters arising after the date of the settlement of the sale.

243 M. The Common Interest Community Board may assess a monetary penalty for failure to deliver  
244 the association disclosure packet within 14 days against any (i) property owners' association pursuant to  
245 § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations  
246 promulgated thereto, and may issue a cease and desist order against an association pursuant to ~~§ 54.1-~~  
247 ~~2349 or 54.1-2352, as applicable.~~

248 N. No association may collect fees authorized by this section unless the association (i) is registered  
249 with the Common Interest Community Board, (ii) is current in filing the most recent annual report and fee  
250 with the Common Interest Community Board pursuant to § 55.1-1835, (iii) is current in paying any  
251 assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5, and (iv) provides  
252 the disclosure packet electronically if so requested by the requester.

253 **§ 55.1-1833. Lien for assessments.**

254 A. ~~The~~ Once perfected, the association shall have a lien, ~~once perfected,~~ on every lot for unpaid  
255 assessments levied against that lot in accordance with the provisions of this chapter and all lawful  
256 provisions of the declaration. The lien, once perfected, shall be prior to all other subsequent liens and  
257 encumbrances except (i) real estate tax liens on that lot, (ii) liens and encumbrances recorded prior to the  
258 recordation of the declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust  
259 recorded prior to the perfection of such lien. The provisions of this subsection shall not affect the priority  
260 of mechanics' and materialmen's liens. Notice of a memorandum of lien to a holder of a credit line deed  
261 of trust under § 55.1-318 shall be given in the same fashion as if the association's lien were a judgment.

262 B. The association, in order to perfect the lien given by this section, shall file, before the expiration  
263 of 12 months from the time the first such assessment became due and payable in the clerk's office of the  
264 circuit court in the county or city in which such development is situated, a memorandum, verified by the

265 oath of the principal officer of the association or such other officer or officers as the declaration may  
266 specify, which contains the following:

- 267 1. The name of the development;
- 268 2. A description of the lot;
- 269 3. The name or names of the persons constituting the owners of that lot;
- 270 4. The amount of unpaid assessments currently due or past due relative to such lot together with  
271 the date when each fell due;
- 272 5. The date of issuance of the memorandum;
- 273 6. The name of the association and the name and current address of the person to contact to arrange  
274 for payment or release of the lien; and
- 275 7. A statement that the association is obtaining a lien in accordance with the provisions of the  
276 Property Owners' Association Act as set forth in Chapter 18 (§ 55.1-1800 et seq.) of Title 55.1.

277 It shall be the duty of the clerk in whose office such memorandum is filed as provided in this  
278 section to record and index the same as provided in subsection D, in the names of the persons identified  
279 in such memorandum as well as in the name of the association. The cost of recording and releasing the  
280 memorandum shall be taxed against the person found liable in any judgment or order enforcing such lien.

281 C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by  
282 certified mail, at the property owner's last known address, informing the property owner that a  
283 memorandum of lien will be filed in the circuit court clerk's office of the applicable county or city. The  
284 notice shall be sent at least 10 days before the actual filing date of the memorandum of lien.

285 D. Notwithstanding any other provision of this section or any other provision of law requiring  
286 documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any  
287 court, on or after July 1, 1989, all memoranda of liens arising under this section shall be recorded in the  
288 deed books in the clerk's office. Any memorandum shall be indexed in the general index to deeds, and the  
289 general index shall identify the lien as a lien for lot assessments.

290 E. No action to enforce any lien perfected under subsection B shall be brought or action to foreclose  
291 any lien perfected under subsection I shall be initiated after 36 months from the time when the

292 memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action  
293 in which the petition may be properly filed shall be regarded as the institution of an action under this  
294 section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

295 F. The judgment or order in an action brought pursuant to this section shall include reimbursement  
296 for costs and reasonable attorney fees of the prevailing party. If the association prevails, it may also  
297 recover interest at the legal rate for the sums secured by the lien from the time each such sum became due  
298 and payable.

299 G. When payment or satisfaction is made of a debt secured by the lien perfected by subsection B,  
300 the lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released  
301 shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of  
302 § 55.1-339, the principal officer of the association, or any other officer or officers as the declaration may  
303 specify, shall be deemed the duly authorized agent of the lien creditor.

304 H. Nothing in this section shall be construed to prohibit actions at law to recover sums for which  
305 subsection A creates a lien, maintainable pursuant to § 55.1-1828.

306 I. At any time after perfecting the lien pursuant to this section, the property owners' association  
307 may sell the lot at public sale, subject to prior liens. For purposes of this section, the association shall have  
308 the power both to sell and convey the lot and shall be deemed the lot owner's statutory agent for the  
309 purpose of transferring title to the lot. A nonjudicial foreclosure sale shall be conducted in compliance  
310 with the following:

311 1. The association shall give notice to the lot owner prior to advertisement required by subdivision  
312 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the  
313 debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to  
314 the lot owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the  
315 debt secured by the lien on or before the date specified in the notice may result in the sale of the lot. The  
316 notice shall further inform the lot owner of the right to bring a court action in the circuit court of the county  
317 or city where the lot is located to assert the nonexistence of a debt or any other defense of the lot owner  
318 to the sale.

319           2. After expiration of the 60-day notice period specified in subdivision 1, the association may  
320 appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of  
321 the circuit court in the county or city in which such development is situated. It shall be the duty of the  
322 clerk in whose office such appointment is filed to record and index the same as provided in subsection D,  
323 in the names of the persons identified in such appointment as well as in the name of the association. The  
324 association, at its option, may from time to time remove the trustee and appoint a successor trustee.

325           3. If the lot owner meets the conditions specified in this subdivision prior to the date of the  
326 foreclosure sale, the lot owner shall have the right to have enforcement of the perfected lien discontinued  
327 prior to the sale of the lot. Those conditions are that the lot owner (i) satisfy the debt secured by lien that  
328 is the subject of the nonjudicial foreclosure sale and (ii) pay all expenses and costs incurred in perfecting  
329 and enforcing the lien, including advertising costs and reasonable attorney fees.

330           4. In addition to the advertisement required by subdivision 5, the association shall give written  
331 notice of the time, date, and place of any proposed sale in execution of the lien, including the name,  
332 address, and telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the  
333 property to be sold at his last known address as such owner and address appear in the records of the  
334 association, (ii) any lienholder who holds a note against the property secured by a deed of trust recorded  
335 at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii)  
336 any assignee of such a note secured by a deed of trust, provided that the assignment and address of the  
337 assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the  
338 advertisement or the notice containing the same information to the owner by certified or registered mail  
339 no less than 14 days prior to such sale and to lienholders and their assigns, at the addresses noted in the  
340 memorandum of lien, by United States mail, postage prepaid, no less than 14 days prior to such sale, shall  
341 be a sufficient compliance with the requirement of notice.

342           5. The advertisement of sale by the association shall be in a newspaper having a general circulation  
343 in the county or city in which the property to be sold, or any portion of such property, is located pursuant  
344 to the following provisions:

345 a. The association shall advertise once a week for four successive weeks; however, if the property  
346 or some portion of such property is located in a city or in a county immediately contiguous to a city,  
347 publication of the advertisement on five different days, which may be consecutive days, shall be deemed  
348 adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier  
349 than eight days following the first advertisement nor more than 30 days following the last advertisement.

350 b. Such advertisement shall be placed in that section of the newspaper where legal notices appear  
351 or where the type of property being sold is generally advertised for sale. The advertisement of sale, in  
352 addition to such other matters as the association finds appropriate, shall set forth a description of the  
353 property to be sold, which description need not be as extensive as that contained in the deed of trust but  
354 shall identify the property by street address, if any, or, if none, shall give the general location of the  
355 property with reference to streets, routes, or known landmarks. Where available, tax map identification  
356 may be used but is not required. The advertisement shall also include the date, time, place, and terms of  
357 sale and the name of the association. It shall set forth the name, address, and telephone number of the  
358 representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

359 c. In addition to the advertisement required by subdivisions a and b, the association may further  
360 advertise as the association finds appropriate.

361 6. In the event of postponement of sale, which postponement shall be at the discretion of the  
362 association, advertisement of such postponed sale shall be in the same manner as the original  
363 advertisement of sale.

364 7. Failure to comply with the requirements for advertisement contained in this section shall, upon  
365 petition, render a sale of the property voidable by the court.

366 8. The association shall have the following powers and duties upon a sale:

367 a. Written one-price bids may be made and shall be received by the trustee from the association or  
368 any person for entry by announcement at the sale. Any person other than the trustee may bid at the  
369 foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee,  
370 any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless  
371 otherwise provided in the declaration, the association may bid to purchase the lot at a foreclosure sale.

372 The association may own, lease, encumber, exchange, sell, or convey the lot. Whenever the written bid of  
373 the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with  
374 his account of sale required under subdivision I 10 and § 64.2-1309. The written bid submitted pursuant  
375 to this subsection may be prepared by the association, its agent, or its attorney.

376 b. The association may require any bidder at any sale to post a cash deposit of as much as 10  
377 percent of the sale price before his bid is received, which shall be refunded to him if the property is not  
378 sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or, if such  
379 bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses  
380 of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

381 c. The property owners' association shall receive and receipt for the proceeds of sale, no purchaser  
382 being required to see to the application of the proceeds, and apply the same in the following order: first,  
383 to the reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies,  
384 and assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments;  
385 fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to  
386 pay the residue of the proceeds to the owner or his assigns, provided, however, that, as to the payment of  
387 such residue, the association shall not be bound by any inheritance, devise, conveyance, assignment, or  
388 lien of or upon the owner's equity, without actual notice thereof prior to distribution.

389 9. The trustee shall deliver to the purchaser a trustee's deed conveying the lot with special warranty  
390 of title. The trustee shall not be required to take possession of the property prior to the sale of such property  
391 or to deliver possession of the lot to the purchaser at the sale.

392 10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to  
393 § 64.2-1309, and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the  
394 accounting shall be made available for inspection and copying pursuant to § 55.1-1815 upon the written  
395 request of the prior lot owner, the current lot owner, or any holder of a recorded lien against the lot at the  
396 time of the sale. The association shall maintain a copy of the accounting for at least 12 months following  
397 the foreclosure sale.

398 11. If the sale of a lot is made pursuant to subsection I and the accounting is made by the trustee,  
399 the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation  
400 of the accounting by the commissioner of accounts the sale is set aside by the court or an appeal is allowed  
401 by the Supreme Court of Virginia and an order is entered requiring such sale to be set aside.

402 **§ 55.1-1904. Association charges.**

403 Except as expressly authorized in this chapter, in the condominium instruments, or as otherwise  
404 provided by law, no unit owners' association may make an assessment or impose a charge against a unit  
405 owner unless the charge is (i) authorized under § 55.1-1964, (ii) a fee for services provided, or (iii) related  
406 to the provisions set out in § 55.1-1992. The Common Interest Community Board may assess a monetary  
407 penalty for a violation of this section against any (a) unit owners' association pursuant to § 54.1-2351 or  
408 (b) common interest community manager pursuant to § 54.1-2349 and may issue a cease and desist order  
409 against an association pursuant to ~~§ 54.1-2349 or 54.1-2352, as applicable.~~

410 **§ 55.1-1911. Recordation of condominium instruments.**

411 ~~All amendments and certifications of condominium instruments shall set forth the name of the~~  
412 ~~county or city in which the condominium is located and the deed book and page number where the first~~  
413 ~~page of the declaration is recorded.~~ All condominium instruments and all amendments and certifications  
414 of such condominium instruments shall be recorded in every county and city in which any portion of the  
415 condominium is located. The condominium instruments, amendments, and certifications shall set forth the  
416 name of the condominium and either the deed book and page number where the first page of the  
417 declaration is recorded or the document number assigned to the declaration by the clerk.

418 **§ 55.1-1919. Assignments of limited common elements; conversion to common element.**

419 A. All assignments and reassignments of limited common elements shall be reflected by the  
420 condominium instruments. No limited common element shall be assigned or reassigned except in  
421 accordance with the provisions of this chapter. No amendment to any condominium instrument shall alter  
422 any rights or obligations with respect to any limited common elements without the consent of all unit  
423 owners adversely affected by such amendment as evidenced by their execution of such amendment, except

424 to the extent that the condominium instruments expressly provided otherwise prior to the first assignment  
425 of that limited common element.

426 B. Unless expressly prohibited by the condominium instruments, a limited common element may  
427 be reassigned or converted to a common element upon written application of the unit owners concerned  
428 to the principal officer of the unit owners' association, or to such other officer as the condominium  
429 instruments may specify. The officer to whom such application is duly made shall forthwith prepare and  
430 execute an amendment to the declaration reassigning all rights and obligations with respect to the limited  
431 common element involved. Such amendment shall be executed by ~~all of~~ the unit owners concerned and  
432 recorded by an officer of the unit owners' association or his agent following payment by the unit owners  
433 of the units concerned of all reasonable costs for the preparation, acknowledgment, and recordation of  
434 such amendment. The amendment is effective when recorded.

435 C. A common element not previously assigned as a limited common element shall be so assigned  
436 only pursuant to subdivision A 6 of § 55.1-1916. The amendment to the declaration making such an  
437 assignment shall be prepared and executed by the declarant, the principal officer of the unit owners'  
438 association, or by such other officer as the condominium instruments may specify. Such amendment shall  
439 be recorded by the declarant or his agent, without charge to any unit owner, or by an officer of the unit  
440 owners' association or his agent following payment by ~~all of~~ the unit owners of the units concerned of all  
441 reasonable costs for the preparation, acknowledgment, and recordation of such amendment. The  
442 amendment is effective when recorded, and the recordation of such amendment shall be conclusive  
443 evidence that the method prescribed pursuant to subdivision A 6 of § 55.1-1916 was adhered to. A copy  
444 of the amendment shall be delivered to the unit owners of the units concerned. If executed by the declarant,  
445 such an amendment recorded prior to July 1, 1983, shall not be invalid because it was not prepared by an  
446 officer of the unit owners' association.

447 D. If the declarant does not prepare and record an amendment to the declaration to effect the  
448 assignment of common elements as limited common elements in accordance with rights reserved in the  
449 condominium instruments, but has reflected an intention to make such assignments in deeds conveying



450 units, then the principal officer of the unit owners' association may prepare, execute, and record such an  
451 amendment at any time after the declarant ceases to be a unit owner.

452 E. The declarant may unilaterally record an amendment to the declaration converting a limited  
453 common element appurtenant to a unit owned by the declarant into a common element as long as the  
454 declarant continues to own the unit.

455 **§ 55.1-1937. Termination of condominium.**

456 A. If there is no unit owner other than the declarant, the declarant may unilaterally terminate the  
457 condominium. An instrument terminating a condominium signed by the declarant is effective upon  
458 recordation of such instrument. But this section shall not be construed to nullify, limit, or otherwise affect  
459 the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right  
460 hereby conferred.

461 B. Except in the case of a taking of all the units by eminent domain, if any of the units in the  
462 condominium is restricted exclusively to residential use and there is any unit owner other than the  
463 declarant, the condominium may be terminated only by the agreement of unit owners of units to which  
464 four-fifths of the votes in the unit owners' association appertain, or such larger majority as the  
465 condominium instruments may specify. If none of the units in the condominium is restricted exclusively  
466 to residential use, the condominium instruments may specify a majority smaller than the minimum  
467 specified in this subsection.

468 C. Agreement of the required majority of unit owners to termination of the condominium shall be  
469 evidenced by their execution of a termination agreement, or ratifications of such agreement, and such  
470 agreement is effective when a copy of the termination agreement is recorded together with a certification,  
471 signed by the principal officer of the unit owners' association or by such other officer as the condominium  
472 instruments may specify, that the requisite majority of the unit owners signed the termination agreement  
473 or ratifications. Unless the termination agreement otherwise provides, prior to recordation of the  
474 termination agreement, a unit owner's prior agreement to terminate the condominium may be revoked only  
475 with the approval of unit owners of units to which a majority of the votes in the unit owners' association  
476 appertain. The termination agreement shall specify a date after which the termination agreement is void if

477 the termination agreement is not recorded. For the purposes of this section, an instrument terminating a  
478 condominium and any ratification of such instrument shall be deemed a condominium instrument subject  
479 to the provisions of § 55.1-1911.

480 D. In the case of a condominium that contains only units having horizontal boundaries described  
481 in the condominium instruments, a termination agreement may provide that all of the common elements  
482 and units of the condominium shall be sold following termination. If, pursuant to the termination  
483 agreement, any property in the condominium is sold following termination, the termination agreement  
484 shall set forth the minimum terms of the sale.

485 E. In the case of a condominium that contains any units not having horizontal boundaries described  
486 in the condominium instruments, a termination agreement may provide for sale of the common elements.  
487 The termination agreement may not require that the units be sold following termination, unless the  
488 condominium instruments as originally recorded provide otherwise or all the unit owners consent to the  
489 sale. In the case of a master condominium that contains a unit that is a part of another condominium, a  
490 termination agreement for the master condominium shall not terminate the other condominium.

491 F. On behalf of the unit owners, the unit owners' association may contract for the disposition of  
492 property in the condominium, but the contract shall not be binding on the unit owners until approved  
493 pursuant to subsections B and C. If the termination agreement requires that any property in the  
494 condominium be sold following termination, title to the property, upon termination, shall vest in the unit  
495 owners' association as trustee for the holders of all interest in the units. Thereafter, the unit owners'  
496 association shall have powers necessary and appropriate to effect the sale. Until the termination has been  
497 concluded and the proceeds have been distributed, the unit owners' association shall continue in existence  
498 with all the powers the unit owners' association had before termination. Proceeds of the sale shall be  
499 distributed to unit owners and lien holders as their interests may appear, in proportion to the respective  
500 interests of the unit owners as provided in subsection I. Unless otherwise specified in the termination  
501 agreement, for as long as the unit owners' association holds title to the property, each unit owner or his  
502 successor in interest shall have an exclusive right to occupancy of the portion of the property that formerly  
503 constituted his unit. During the period of occupancy by the unit owner or his successor in interest, each

504 unit owner or his successor in interest shall remain liable for any assessment or other obligation imposed  
505 on the unit owner by this chapter or the condominium instruments.

506 G. If the property that constitutes the condominium is not sold following termination, title to the  
507 common elements and, in the case of a condominium containing only units that have horizontal boundaries  
508 described in the condominium instruments, title to all the property in the condominium shall vest in the  
509 unit owners, upon termination, as tenants in common in proportion to the unit owners' respective interests  
510 as provided in subsection I. Any liens on the units shall shift accordingly. While the tenancy in common  
511 exists, each unit owner or his successor in interest shall have the exclusive right to occupancy of the  
512 portion of the property that formerly constituted the unit owner's unit.

513 H. Following termination of the condominium, the proceeds of any sale of property, together with  
514 the assets of the unit owners' association, shall be held by the unit owners' association as trustee for unit  
515 owners or lien holders on the units as their interests may appear. Following termination, any creditor of  
516 the unit owners' association who holds a lien on the unit that was recorded before termination may enforce  
517 the lien in the same manner as any lien holder. Any other creditor of the unit owners' association shall be  
518 treated as if he had perfected a lien on the units immediately before termination.

519 I. Unless the condominium instruments as originally recorded or as amended by 100 percent of the  
520 unit owners provide otherwise, the respective interests of unit owners referred to in subsections F, G, and  
521 H shall be as follows:

522 1. Except as provided in subdivision 2, the respective interests of the unit owners shall be the fair  
523 market values of their units, limited common elements, and common element interests immediately before  
524 the termination, as determined by one or more independent appraisers selected by the unit owners'  
525 association. The decision of the independent appraisers shall be distributed to the unit owners and become  
526 final unless disapproved within 30 days after distribution by unit owners of units to which one quarter of  
527 the votes in the unit owners' association appertain. The proportion of any unit owner's interest to the  
528 interest of all unit owners is determined by dividing the fair market value of that unit owner's unit and  
529 common element interest by the total fair market values of all the units and their common element  
530 interests.

531 2. If any unit or limited common element is destroyed to the extent that an appraisal of the fair  
532 market value of such unit or limited common element before destruction cannot be made, the interests of  
533 all unit owners are the unit owners' respective common element interests immediately before the  
534 termination.

535 J. Except as provided in subsection K, foreclosure of any mortgage, deed of trust, or other lien, or  
536 enforcement of a lien or encumbrance against the entire condominium shall not alone terminate the  
537 condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the  
538 condominium, other than withdrawable land, shall not withdraw that portion from the condominium.  
539 Foreclosure or enforcement of a lien or encumbrance against withdrawable land shall not alone withdraw  
540 the land from the condominium, but the person who takes title to the withdrawable land shall have the  
541 right to require from the unit owners' association, upon request, an amendment that excludes the land from  
542 the condominium.

543 K. If a lien or encumbrance against a portion of the property that comprises the condominium has  
544 priority over the condominium instruments and the lien or encumbrance has not been partially released,  
545 upon foreclosure, the parties foreclosing the lien or encumbrance may record an instrument that excludes  
546 the property subject to the lien or encumbrance from the condominium.

547 ~~L. The foreclosure of any mortgage, deed of trust, or other lien shall not be deemed, ex proprio~~  
548 ~~vigore, to terminate the condominium.~~

549 #

# ***VIRGINIA CODE ANNOTATED***

	<b>2020 PRICES</b>				<b>2019 PRICES</b>	
	STATE (6 Replacement Volumes)	PRIVATE (6 Replacement Volumes)	STATE (5 Replacement Volumes)	PRIVATE (5 Replacement Volumes)	STATE (4 Replacement Volumes)	PRIVATE (4 Replacement Volumes)
SUPPLEMENT	\$210.50	\$272.00	\$220.50	\$286.80	\$242.00	\$322.35
INDEX	\$106.50	\$112.75	\$106.50	\$112.75	\$106.50	\$112.75
VOLUMES (EACH)	\$57.35	\$71.35	\$57.35	\$71.35	\$57.35	\$71.35
VOLUME 11	\$43.60	\$57.35	\$43.60	\$57.35	\$43.60	\$57.35
VOLUME 11 SUPP	\$14.70	\$14.70	\$14.70	\$14.70	\$14.70	\$14.70
ADVANCE CODE		\$86.75		\$86.75		\$86.65
SERVICE						
<b>TOTAL</b>	<b>\$719.40</b>	<b>\$971.65</b>	<b>\$672.05</b>	<b>\$915.10</b>	<b>\$636.20</b>	<b>\$879.20</b>

(STATE GOVERNMENT PRICING FOR PURCHASES OUTSIDE OF THE CODE COMMISSION PURCHASE)

PPI increase is 9%. The proposed price increase above reflects a 5% increase.

Vol	Title	Subject	Edition	BV pp*	19 CS	%	Lexis*	Replacement Candidates
1	1-2.2	Gen. Prov., Adm. of Govt.	2017	1187	256	21.6%	1222	
1A	3.2	Agriculture	2016	550	73	13.3%	568	
1B	4.1-6.2	Alcoholic Bev. -- Financial Institutions	2016	747	152	20.3%	783	
2	8.01	Civil Remedies & Procedure	2015	1386	225	16.2%	1515	
2A	8.1-8.11	UCC	2015	1029	20	1.9%	1033	
2B	9-10.1	Commissions -- Conservation	2018	690	58	8.4%	692	
3	11-14.1	Contracts to Corporations	2016	677	267	39.4%	797	5
3A Part 1	15.2 Part 1	Counties, Cities, and Towns	2018	916	84	9.2%	952	
3A Part 2	15.2 Part 2	Counties, Cities, and Towns	2018	511	61	11.9%	529	
3B	16.1-17.1	Courts	2015	690	246	35.7%	775	4
4	18.2	Crimes	2014	1197	300	25.1%	1343	
4A	19.2	Criminal Procedure	2015	796	231	29.0%	878	
4B	20, 21	Domestic Relations, Drainage	2016	722	109	15.1%	757	
5	22.1, 23	Education -- Eminent Domain	2016	780	270	34.6%	858	
5A	24.2-28.2	Elections - Fiduciaries	2016	737	125	17.0%	767	
5B	29.1-32.1	Game to Health	2018	939	92	9.8%	941	
6	33.2-37.2	Highways -- Mental Health	2019	1005		0.0%		
6A	38.2	Insurance	2014	1231	319	25.9%	1299	1 -- stand alone
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013	655	149	22.7%	711	If the 2021 Recodification of Title 45.1 is moving forward, we can wait until next year
7	46.2	Motor Vehicles	2017	1177	208	17.7%	1219	
7A	47.1 - 53.1	Notaries to Prisons	2013	758	209	27.6%	807	3
7B	54.1	Professions	2019	842		0.0%		
8	55.1-57	Property -- Religious & Charitable Matters	2019	1286		0.0%		
8A	58.1	Taxation	2017	1231	303	24.6%	1305	
9	59.1-62.1	Trade -- Waters	2019	1303		0.0%		
9A	63.2-64.2	Welfare -- Wills Trusts & Estates	2017	911	186	20.4%	979	

9B	65.2-67	Workers' Compensation -- Energy	2017	784	53	6.8%	800
10		Tables	2015	691	59	8.5%	732
11		Rules	2017	n/a	n/a	n/a	
12		Index	2017	n/a	n/a	n/a	
13		Index	2017	n/a	n/a	n/a	
Const.		Consts.	2008	296	90	30.4%	372
LEO1		LEO/UPL	2002	631	62	9.8%	643
LEO2		LEO/UPL	2013	955	109	11.4%	1001

2

5

<b>Vol</b>	<b>Title</b>	<b>Subject</b>	<b>Edition</b>
LEO1		LEO/UPL	2002
1A	3.2	Agriculture	2008
4B	20, 21	Domestic Relations, Drainage	2008
Const.		Consts.	2008
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010
3B	16.1-17.1	Courts	2010
Compacts		Compacts	2010
3	11-14.1	Contracts to Corporations	2011
5	22.1, 23	Education -- Eminent Domain	2011
5A	24.2-28.2	Elections - Fiduciaries	2011
11		Rules	2011
12		Index	2011
13		Index	2011
2B	9-10.1	Commissions -- Conservation	2012
3A	15.2	Counties, Cities, and Towns	2012
8	55-57	Property -- Religious & Charitable Matters	2012
9A	63.2-67	Welfare -- Youth & Family Services	2012
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013
7A	47.1 - 53.1	Notaries to Prisons	2013
7B	54.1	Professions	2013
8A	58.1	Taxation	2013
LEO2		LEO/UPL	2013
1	1-2.2	Gen. Prov., Adm. of Govt.	2014
4	18.2	Crimes	2014
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014
6A	38.2	Insurance	2014
7	46.2	Motor Vehicles	2014
9	59.1-62.1	Trade -- Waters	2014
2	8.01	Civil Remedies & Procedure	2015
2A	8.1-8.11	UCC	2015
4A	19.2	Criminal Procedure	2015
5B	29.1-32.1	Game to Health	2015
10		Tables	2015



Age of Bound Volume page 2

<b>BV pp*</b>	<b>15 CS</b>	<b>%</b>	<b>Lexis*</b>
631	58	9.2%	
432	171	39.6%	550
548	203	37.0%	715
296	73	24.7%	
685	202	29.5%	747
624	260	41.7%	711
514	121	23.5%	
643	192	29.9%	683
785	288	36.7%	829
791	277	35.0%	747
n/a	n/a	n/a	
n/a	n/a	n/a	
n/a	n/a	n/a	
680	98	14.4%	150
1334	249	18.7%	1352
1203	240	20.0%	1254
1552	253	16.3%	1634
655	89	13.6%	668
758	137	18.1%	777
698	178	25.5%	745
1181	284	24.0%	1229
955	58	6.1%	
1081	271	25.1%	1171
1197	103	8.6%	1227
866	190	21.9%	932
1231	81	6.6%	1218
1186	239	20.2%	1126
1172	80	6.8%	1180
1386		0.0%	
1029		0.0%	
805		0.0%	
898		0.0%	
691		0.0%	

Size of Bound Volume page 1

<b>Vol</b>	<b>Title</b>	<b>Subject</b>	<b>Edition</b>
Const.		Consts.	2008
1A	3.2	Agriculture	2008
Compacts		Compacts	2010
4B	20, 21	Domestic Relations, Drainage	2008
3B	16.1-17.1	Courts	2010
LEO1		LEO/UPL	2002
3	11-14.1	Contracts to Corporations	2011
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013
2B	9-10.1	Commissions -- Conservation	2012
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010
10		Tables	2015
7B	54.1	Professions	2013
7A	47.1 - 53.1	Notaries to Prisons	2013
5	22.1, 23	Education -- Eminent Domain	2011
5A	24.2-28.2	Elections - Fiduciaries	2011
4A	19.2	Criminal Procedure	2015
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014
5B	29.1-32.1	Game to Health	2015
LEO2		LEO/UPL	2013
2A	8.1-8.11	UCC	2015
1	1-2.2	Gen. Prov., Adm. of Govt.	2014
9	59.1-62.1	Trade -- Waters	2014
8A	58.1	Taxation	2013
7	46.2	Motor Vehicles	2014
4	18.2	Crimes	2014
8	55-57	Property -- Religious & Charitable Matters	2012
6A	38.2	Insurance	2014
3A	15.2	Counties, Cities, and Towns	2012
2	8.01	Civil Remedies & Procedure	2015
9A	63.2-67	Welfare -- Youth & Family Services	2012
11		Rules	2011
12		Index	2011
13		Index	2011

Size of Bound Volume page 2

<b>BV pp*</b>	<b>15 CS</b>	<b>%</b>	<b>Lexis*</b>
296	73	24.7%	
432	171	39.6%	550
514	121	23.5%	
548	203	37.0%	715
624	260	41.7%	711
631	58	9.2%	
643	192	29.9%	683
655	89	13.6%	668
680	98	14.4%	150
685	202	29.5%	747
691		0.0%	
698	178	25.5%	745
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785	288	36.7%	829
791	277	35.0%	747
805		0.0%	
866	190	21.9%	932
898		0.0%	
955	58	6.1%	
1029		0.0%	
1081	271	25.1%	1171
1172	80	6.8%	1180
1181	284	24.0%	1229
1186	239	20.2%	1126
1197	103	8.6%	1227
1203	240	20.0%	1254
1231	81	6.6%	1218
1334	249	18.7%	1352
1386		0.0%	
1552	253	16.3%	1634
n/a	n/a	n/a	
n/a	n/a	n/a	
n/a	n/a	n/a	

<b>Vol</b>	<b>Title</b>	<b>Subject</b>	<b>Edition</b>
LEO1		LEO/UPL	2002
LEO2		LEO/UPL	2013
Const.		Consts.	2008
9	59.1-62.1	Trade -- Waters	2014
6A	38.2	Insurance	2014
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013
2B	9-10.1	Commissions -- Conservation	2012
4	18.2	Crimes	2014
Compacts		Compacts	2010
7A	47.1 - 53.1	Notaries to Prisons	2013
1A	3.2	Agriculture	2008
7B	54.1	Professions	2013
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014
3	11-14.1	Contracts to Corporations	2011
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010
4B	20, 21	Domestic Relations, Drainage	2008
7	46.2	Motor Vehicles	2014
8	55-57	Property -- Religious & Charitable Matters	2012
3A	15.2	Counties, Cities, and Towns	2012
9A	63.2-67	Welfare -- Youth & Family Services	2012
3B	16.1-17.1	Courts	2010
1	1-2.2	Gen. Prov., Adm. of Govt.	2014
5A	24.2-28.2	Elections - Fiduciaries	2011
8A	58.1	Taxation	2013
5	22.1, 23	Education -- Eminent Domain	2011
11		Rules	2011
12		Index	2011
13		Index	2011
2	8.01	Civil Remedies & Procedure	2015
2A	8.1-8.11	UCC	2015
4A	19.2	Criminal Procedure	2015
5B	29.1-32.1	Game to Health	2015
10		Tables	2015

<b>BV pp*</b>	<b>15 CS</b>	<b>%</b>	<b>Lexis*</b>
631	58	9.2%	
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n/a	n/a	n/a	
n/a	n/a	n/a	
n/a	n/a	n/a	
1386		0.0%	
1029		0.0%	
805		0.0%	
898		0.0%	
691		0.0%	

Percentage in Supplement page 1

<b>Vol</b>	<b>Title</b>	<b>Subject</b>	<b>Edition</b>
2	8.01	Civil Remedies & Procedure	2015
2A	8.1-8.11	UCC	2015
4A	19.2	Criminal Procedure	2015
5B	29.1-32.1	Game to Health	2015
10		Tables	2015
LEO2		LEO/UPL	2013
6A	38.2	Insurance	2014
9	59.1-62.1	Trade -- Waters	2014
4	18.2	Crimes	2014
LEO1		LEO/UPL	2002
6B	40.1-45.1	Labor & Employment -- Mines & Mining	2013
2B	9-10.1	Commissions -- Conservation	2012
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7A	47.1 - 53.1	Notaries to Prisons	2013
3A	15.2	Counties, Cities, and Towns	2012
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7	46.2	Motor Vehicles	2014
6	33.2-37.2	Highways -- Institutions for the Mentally Ill	2014
Compacts		Compacts	2010
8A	58.1	Taxation	2013
Const.		Consts.	2008
1	1-2.2	Gen. Prov., Adm. of Govt.	2014
7B	54.1	Professions	2013
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4B	20, 21	Domestic Relations, Drainage	2008
1A	3.2	Agriculture	2008
3B	16.1-17.1	Courts	2010
11		Rules	2011
12		Index	2011
13		Index	2011

Percentage in Supplement page 2

<b>BV pp*</b>	<b>15 CS</b>	<b>%</b>	<b>Lexis*</b>
1386		0.0%	
1029		0.0%	
805		0.0%	
898		0.0%	
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624	260	41.7%	711
n/a	n/a	n/a	
n/a	n/a	n/a	
n/a	n/a	n/a	

<b>Vol</b>	<b>Title</b>	<b>Subject</b>	<b>Edition</b>
1	1-2.2	Gen. Prov., Adm. of Govt.	2014
1A	3.2	Agriculture	2008
1B	4.1-7.1	Alcoholic Bev. -- Boundaries	2010
2	8.01	Civil Remedies & Procedure	2015
2A	8.1-8.11	UCC	2015
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3	11-14.1	Contracts to Corporations	2011
3A	15.2	Counties, Cities, and Towns	2012
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7	46.2	Motor Vehicles	2014
7A	47.1 - 53.1	Notaries to Prisons	2013
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8A	58.1	Taxation	2013
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9A	63.2-67	Welfare -- Youth & Family Services	2012
10		Tables	2015
11		Rules	2011
12		Index	2011
13		Index	2011
Compacts		Compacts	2010
Const.		Consts.	2008
LEO1		LEO/UPL	2002
LEO2		LEO/UPL	2013



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691		0.0%	
n/a	n/a	n/a	
n/a	n/a	n/a	
n/a	n/a	n/a	
514	121	23.5%	
296	73	24.7%	
631	58	9.2%	
955	58	6.1%	

Sub.	Current	Proposed
A	<p>A practitioner of medicine, osteopathy, podiatry, dentistry, or vet. med. or a licensed NP, licensed PA, or TPA-certified optometrist shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes in the course of his professional practice</p>	<p>List of individuals who may prescribe - moved to definition of “prescriber” in § 54.1-3401</p> <p>Requirements re: prescribing (in good faith for medicinal or therapeutic purposes in the course of his professional practice) - added to new § 54.1-3408.002, “Requirements for prescriptions; issuance by prescriber; bona fide practitioner-patient or veterinarian-client-patient relationship required; exceptions.”</p> <p style="padding-left: 40px;">NOTE that similar language can already be found in existing § 54.1-3303; that language is also moved to new § 54.1-3408.002.</p> <p>Requirements for administering - moved to new subsection A</p> <p>Requirements for dispensing - moved to new § 54.1-3410.3, “Dispensing by person other than pharmacist.”</p>
B	<p>The prescribing practitioner’s order may be on a written prescription or pursuant to an oral prescription ...</p> <p>The prescriber may administer the drugs and devices or he may cause drugs and devices to be administered by:</p> <ol style="list-style-type: none"> <li>1. A nurse, PA or intern who is under his direction and supervision</li> <li>2. Persons trained to administer drugs and devices to persons in state-owned or state-operated hospitals or facilities licensed as hospitals by VDH or DBHDS who administer drugs under control and supervision of the prescriber or a pharmacist</li> <li>3. EMS personnel certified and authorized to administer drugs and devices pursuant to regulations of the BoH who act within the scope of such certification and pursuant to an oral or written order or standing protocol</li> <li>4. A Licensed Res. Care Therapist who administers, by means of inhalation, controlled substances used in inhalation or respiratory therapy</li> </ol>	<p>First sentence re: form of prescription (written or oral prescription) - moved to § 54.1-3408.01, new subsection A</p> <p>Remainder of this section, re: administration of drugs and devices:</p> <ul style="list-style-type: none"> <li>• By a prescriber - moved to § 54.1-3408.001(A)(1)</li> <li>• By a nurse - moved to new § 54.1-3408.001(A)(4) for registered nurse, or new § 54.1-3408.001(A)(5) for licensed practical nurse</li> <li>• By a PA - moved to new § 54.1-3408.001(A)(3)</li> <li>• By an intern - moved to new § 54.1-3408.001(A)(2)</li> <li>• By a person trained to administer drugs and devices in state owned or state-operated hospitals, etc. - moved to new § 54.1-3408.001(A)(6)</li> <li>• By EMS personnel - moved to new § 54.1-3408.001(A)(9) ... NOTE the updated terminology, “EMS personnel” replaced with language from definition of “EMS personnel” in § 32.1-111.1</li> <li>• By a licensed respiratory care therapist - moved to new § 54.1-3408.001(A)(7)</li> </ul>

<p>C</p>	<p>Pursuant to oral or written order or standing protocol, prescriber who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice may authorize a nuclear medicine tech. to admin radiopharmaceuticals used in the diagnosis or treatment of disease under his supervision</p>	<p>Moved to new § 54.1-3408.001(A)(14)</p>
<p>D</p>	<p>Pursuant to oral or written order or standing protocol issued by the prescriber in the course of his professional practice, prescriber may authorize RNs and LPNs to possess:</p> <ul style="list-style-type: none"> <li>(i) epinephrine and oxygen for administration in treatment of emergency medical conditions</li> <li>(ii) heparin and sterile normal saline to use for the maintenance of IV access lines</li> </ul> <p>Pursuant to regulations of the Board of Health, certain EMS providers may possess and admin epinephrine in emergency cases of anaphylactic shock</p> <p>Pursuant to an order or standing protocol issued by the prescriber in the course of his professional practice any of the following authorized by the prescriber and trained in the admin of epinephrine may possess and admin epinephrine:</p> <ul style="list-style-type: none"> <li>• school nurse, school board employee, employee of local governing body, employee of local health department</li> <li>• employee of a school for students with disabilities ... or employee of a private school</li> <li>• employee of a public ... or private institution of higher education</li> <li>• any employee of an organization providing outdoor educational experiences or programs for youth</li> </ul>	<p>Epinephrine and oxygen - moved to new § 54.1-3408.001(A)(4)(a) for RNs, moved to new § 54.1-3408.001(A)(5)(a) for LPNs</p> <p>Heparin and sterile normal saline - moved to new § 54.1-3408.001(A)(4)(b) for RNs, moved to new § 54.1-3408.001(A)(5)(b) for LPNs</p> <p>Moved to new § 54.1-3408.001(A)(8)(a).</p> <p>NOTE current language, “emergency medical technician,” is an obsolete term; has been replaced with either “EMS provider” or “EMS personnel” depending on context</p> <p>School nurse - moved to new § 54.1-3408.001(A)(20)</p> <p>School board employee - moved to new § 54.1-3408.001(A)(18)(a)</p> <p>Employee of a local governing body - moved to new § 54.1-3408.001(A)(21)</p> <p>Employee of a local health department moved to new § 54.1-3408.001(A)(22)</p> <p>Employee of school for students with disabilities - moved to new § 54.1-3408.001(A)(23)(a)</p> <p>Employee of a private school - moved to new § 54.1-3408.001(A)(19)(a)</p> <p>Employee of a public or private institution of higher education - moved to new § 54.1-3408.001(A)(24)(a)</p>

<p>D Cont.</p>	<p>Pursuant to an order by the prescriber in the course of his professional practice, an employee or contractor of a DBHDS licensed provider may possess and admin epinephrine provided such person is authorized and trained to admin epinephrine</p> <p>Pursuant to an oral or written order or standing protocol issued by the prescriber in the course of his professional practice, prescriber may authorize pharmacists to possess epinephrine and oxygen for admin to treatment emergency medical conditions</p>	<p>Employee of an organization providing outdoor educational experiences or programs for youth - moved to new § 54.1-3408.001(A)(25) Moved to new § 54.1-3408.001(A)(17)(a)</p> <p>Moved to new § 54.1-3408.001(A)(10)(a)</p>
<p>E</p>	<p>Pursuant to oral or written order or standing protocol issued by the prescriber in the course of his professional practice such prescriber may authorize physical therapists to possess and administer topical corticosteroids, topical lidocaine, and other Schedule VI topical drugs</p>	<p>Moved to new § 54.1-3408.001(A)(11)</p>
<p>F</p>	<p>Pursuant to oral or written order or standing protocol issued by the prescriber in the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer:</p> <ul style="list-style-type: none"> <li>• topical corticosteroids, topical lidocaine, and other Schedule VI topical drugs</li> <li>• oxygen for use in emergency situations</li> <li>• epinephrine for use in emergency cases of anaphylactic shock</li> </ul>	<p>Moved to new § 54.1-3408.001(A)(12)</p>
<p>G</p>	<p>Pursuant to oral or written order or standing protocol issued by the prescriber in the course of his professional practice ...</p> <p>And in accordance with policies and guidelines established by the Board of Health pursuant to § 32.1-50.2 (subsection includes rules for Board of Health policies and guidelines) ...</p> <p>Prescriber may authorize RN or LPN who is acting under supervision of RN to possess and admin tuberculin purified protein derivative (PPD) in absence of prescriber</p>	<p>Moved to new § 54.1-3408.001(A)(4)(1) for RNs Moved to new § 54.1-3408.001(A)(5) for LPNs</p>

<p>G Cont.</p>	<p>Standing protocol must shall explicitly describe categories of individuals to whom test is to be administered and shall provide for appropriate medical evaluation for positive result. Prescriber shall ensure that nurse implementing standing protocols has received adequate training ...</p> <p>Commissioner ... may authorize RNs acting as agents of VDH to possess and administer PPD to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by VDH</p>	<p>This paragraph moved to Title 32.1-50.2</p> <p>Moved to new § 54.1-3408.001(A)(4)(2)</p>
<p>H</p>	<p>Pursuant to oral or written order or standing protocol issued by the prescriber in the course of his professional practice ...</p> <p>Prescriber may authorize the following who are trained in the admin of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia:</p> <ul style="list-style-type: none"> <li>(i) an employee of school board, a school for students with disabilities, or a private school</li> <li>(ii) employee of a public or private institution of higher education</li> </ul> <p>Authorization only effective when licensed nurse, NP, physician, or PA is not present to perform administration of medication</p> <p>Pursuant to written order issued by the prescriber in the course of his professional practice ...</p> <p>Prescriber may authorize the following who are trained in the admin of insulin and glucagon to assist with the administration of insulin or administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia: employee or contractor of a private provider licensed by DBHDS</p>	<p>Employee of a school board - moved to new § 54.1-3408.001(A)(18)(b) and (c)</p> <p>Employee of school for students with disabilities - moved to new § 54.1-3408.001(A)(23)(b) and (c)</p> <p>Employee of a private school - moved to new § 54.1-3408.001(A)(19)(b) and (c)</p> <p>Employee of a public or private institution of higher education - moved to new § 54.1-3408.001(A)(24)(b) and (c)</p> <p>Moved to new § 54.1-3408.001(A)(17)(b) and (c)</p>

<p>I</p>	<p>Pursuant to a protocol authorized by BoN, prescriber may authorize administration of vaccines to adults for immunization, in the absence of a prescriber, by:</p> <ul style="list-style-type: none"> <li>(i) Licensed pharmacist</li> <li>(ii) RN</li> <li>(iii) LPN under supervision of RN</li> </ul> <p>Prescriber acting on behalf of and in accordance with protocols of VDH may authorize administration of vaccines to any person when the prescriber is not physically present by:</p> <ul style="list-style-type: none"> <li>(a) Pharmacist</li> <li>(b) Nurse</li> <li>(c) Designated EMS provider who holds ALS certificate who is acting under direction of OMD</li> </ul> <p>EMS provider must provide documentation of vaccine to be recorded in the VIIS</p>	<p>Licensed pharmacist - moved to new § 54.1-3408.001(A)(10)(b)                  RN - moved to new § 54.1-3408.001(A)(4)(c)                  LPN - moved to new § 54.1-3408.001(A)(5)(c)</p> <p>Licensed pharmacist - moved to new § 54.1-3408.001(A)(10)(c)                  RN - moved to new § 54.1-3408.001(A)(4)(d)                  LPN - moved to new § 54.1-3408.001(A)(5)(d)                  EMS provider - moved to new § 54.1-3408.001(A)(8)(b)</p>
<p>J</p>	<p>Dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by:</p> <ul style="list-style-type: none"> <li>(i) Dental hygienist</li> <li>(ii) Authorized agent of the dentist</li> </ul> <p>Pursuant to a written order and in accordance with a standing protocol issued by a dentist in the course of his professional practice, dentist may authorize a dental hygienist under his general supervision to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry</p> <p>Dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons older age 18 or older, schedule VI local anesthesia</p>	<p>Dental hygienist - moved to new § 54.1-3408.001(A)(15)(a)                  Authorized agent - moved to new § 54.1-3408.001(A)(16)</p> <p>Moved to new § 54.1-3408.001(A)(15)(b)</p> <p>Moved to new § 54.1-3408.001(A)(15)(c)</p>



L Cont.	competency for such administration shall be evaluated semi-annually by a registered nurse.	
M	Registered medication aides ... may administer drugs that would otherwise be self-administered to residents of a licensed AL  Shall administer ...in accordance with prescribers instructions, regulations of the Board of Pharmacy related to security and recordkeeping, and ALF Medication Management Plan, and such other regulations governing practice of registered medication aides adopted by the Board of Nursing	Moved to new § 54.1-3408.001(A)(26)
N	This section shall not prevent administration of drugs by a person who administers in accordance with physician’s instructions and with written authorization of a parent and in accordance with school board regulations when drugs administered would normally be self-administered by a student in a public school.  Requirements re: training - through program approved by local school boards, in consultation with local department of health	Moved to new § 54.1-3408.001(A)(28)
O	Section shall not prevent administration of drugs by a person to: <ul style="list-style-type: none"> <li>(i) A child in a child day program regulated by DSS or local government</li> <li>(ii) Student of a private school</li> </ul> Provided such person: <ul style="list-style-type: none"> <li>(a) has completed training program</li> <li>(b) has obtained written authorization of parent or guardian</li> <li>(c) administers only to the child identified on the prescription label in accordance with prescriber’s instructions</li> <li>(d) administers only those drugs dispensed from a pharmacy and maintained in an original, labeled container that would normally be self-administered by the child or student or administered to the child or student by his parent</li> </ul>	Moved to new § 54.1-3408.001(A)(29)



<p>P</p>	<p>This section shall not prevent administration or dispensing of drugs and devices by persons authorized by the Commissioner in accordance with protocols established by the Commissioner pursuant to § 32.1-42.1 when:</p> <ul style="list-style-type: none"> <li>(i) Governor has declared disaster or emergency or US Sec. HHS has declared actual or potential bioterrorism incident or other actual or potential public health emergency</li> <li>(ii) It is necessary to permit the provision of needed drugs or devices</li> <li>(iii) Such persons have received training necessary to safely administer or dispense needed rugs or devices</li> </ul> <p>Must administer or dispense drugs or devices under direction, control, and supervision of Commissioner</p>	<p>Moved to new § 54.1-3408.001(A)(30)</p>
<p>Q</p>	<p>Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence</p>	<p>Moved to a new section in Chapter 34 NOTE the use of the term “title” - is this appropriate?</p>
<p>R</p>	<p>This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to § 18.2-258.1(G); such prescriptions shall be deemed valid prescriptions</p>	<p>Moved to new § 54.1-3408.001, subsection H</p>
<p>S</p>	<p>Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the BoHP or person authorized for provision practice pursuant to Chapter 27.01, in the ordinary course of their duties in a Medicare-certified rental dialysis facility from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers for the purpose of facilitating renal dialysis treatment when such administration occurs under the orders of a licensed physician, NP, or PA and under the immediate and direct supervision of a licensed RN</p>	<p>Moved to a new § 54.1-3431.3 NOTE the use of the term “title” - is this appropriate?</p>

	<p>Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as such while working in the renal dialysis facility</p> <p>A dialysis care technician or dialysis patient care technician administering drugs shall demonstrate competency as evidenced by holding a valid certification from an organization approved by the BoHP pursuant to Chapter 27.01</p>	
T	<p>Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4</p>	Moved to new § 54.1-3408.001(A)(31)
U	<p>Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include IV, intrathecal, or epidural administration and the prescriber remains responsible for such administration</p>	Moved to new § 54.1-3408.001(A)(13)
V	<p>A PA, nurse, or dental hygienist may possess and administer topical fluoride varnish to the teeth of a child aged six months to three years pursuant to an oral or written order or standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by VDH</p>	<p>PA - moved to new § 54.1-3408.001(A)(3)</p> <p>RN - moved to new § 54.1-3408.001(A)(4)(e)</p> <p>LPN - moved to new § 54.1-3408.001(A)(5)(f)</p> <p>Dental hygienist - moved to new § 54.1-3408.001(A)(15)(d)</p>
W	<p>A prescriber, acting in accordance with guidelines adopted pursuant to § 32.1-46.02, may authorize administration of influenza vaccine to minors by a licensed pharmacist, RN, or LPN under direction and immediate supervision of an RN, or EMS provider who holds an ALS certification when the prescriber is not physically present</p>	<p>Pharmacist - moved to new § 54.1-3408.001(A)(10)(d)</p> <p>RN - moved to new § 54.1-3408.001(A)(4)(e)</p> <p>LPN - moved to new § 54.1-3408.001(A)(5)(e)</p> <p>EMS provider - moved to new § 54.1-3408.001(A)(8)(c)</p>

<p>X</p>	<p>Notwithstanding § 54.1-3303, pursuant to an oral, written or standing order issued by a prescriber or a standing order issued by the Commissioner ... authorizing the dispensing of naloxone ... in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols of the Board of Pharmacy in consultation with the Board of Medicine and VDH, a pharmacist may dispense naloxone ... and a person may possess and administer naloxone ...</p> <p>Any of the following who have completed a training program and who act in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and VDH may possess and administer naloxone: law-enforcement officer, DFS, OCME, DGS DCLS, DOC emp. designated as parole officer or correctional officer, and firefighters</p>	<p>Moved to new § 54.1-3431.1</p>
<p>Y</p>	<p>Notwithstanding any other law or regulation, a person who is authorized by DBHDS to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an overdose or training in administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy may dispense naloxone to a person who has completed a training program ... approved by DBHDS, provided such dispensing is:</p> <ul style="list-style-type: none"> <li>(i) Pursuant to a standing order issued by a prescriber</li> <li>(ii) In accordance the protocols of the Boards of Pharmacy and Medicine and VDH</li> <li>(iii) Without charge or compensation</li> </ul> <p>Dispensing may occur at a site other than that of the controlled substances registration provided the entity possessing the registration maintains records in accordance with regulations of the Board of Pharmacy</p> <p>A person to whom naloxone has been dispensed pursuant to this section may possess and administer</p>	<p>Moved to new § 54.1-3431.1</p>

<p>Z</p>	<p>Pursuant to a written order or standing protocol issued by a prescriber in the course of his professional practice, a prescriber may authorize an employee of a school board, a school for students with disabilities, or a private school to administer injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis, provided such employee is trained in the administration of injected medications for the treatment of adrenal insufficiency and such employee is acting with the consent of the student’s parents</p> <p>Such authorization shall only be effective when a licensed nurse, NP, physician, or PA is not present to perform the administration of the medication</p>	<p>Employee of a school board - moved to new § 54.1-3408.001(A)(18)(d)</p> <p>Employee of school for students with disabilities - moved to new § 54.1-3408.001(A)(23)(d)</p> <p>Employee of a private school - moved to new § 54.1-3408.001(A)(19)d</p>
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## Proposed Reorganization of § 54.1-3408 and Related Sections

§ 32.1-50.2	<b>Administration of tuberculin purified protein derivative by nurse; policies and guidelines</b>	Adds language from § 54.1-3408(G) re: content of policies and guidelines.
§ 54.1-3222	<p><b>TPA certification; certification for treatment of diseases or abnormal conditions with TPAs.</b></p> <p>This section addresses use of controlled substances by TPA certified optometrists.</p>	Amend subsection B, adding language from current § 54.1-3303(I) to clarify the controlled substance a TPA-certified optometrist may prescribe and administer.
§ 54.1-3303	<b>Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.</b>	<p>Generally - the changes to this section strip out provisions related to prescribing, leaving only provisions related to filling of prescriptions (the practice of pharmacy)</p> <p>Subsections D (requiring bona fide practitioner-patient-pharmacist relationship) and F (dispensing pursuant to prescription of out-of-state practitioner) remain, and are renumbered to be subsections A and B.</p> <p>The following sections are moved:</p> <p><b>Subsection A</b>, who may issue a prescription - Definition of “prescriber” and new § 54.1-3408.002 (Requirements of prescriptions; etc.)</p> <p><b>Subsection B</b>, requirement for bona fide practitioner-patient relationship; establishing relationship through telemedicine:</p> <ul style="list-style-type: none"> <li>• ¶ 1, prescription shall only be issued to patient with whom the practitioner has a bona fide relationship - moved to new § 54.1-3408.002(A)</li> <li>• ¶ 2, requirements of bona fide practitioner-patient relationship - moved to new § 54.1-3408.002(B)</li> <li>• ¶ 3, what a practitioner may prescribe - moved to new § 54.1-3408.002(D), ¶1</li> <li>• ¶ 3, what a practitioner may prescribe when examination by telemedicine - moved to new § 54.1-3408.002(D), ¶3</li> <li>• ¶ 4, prescribing schedule VI via telemedicine - moved to new § 54.1-3408.002(D), ¶ 2</li> <li>• ¶ 5, requirement of bona fide veterinarian-client-patient relationship - moved to new § 54.1-3408.002(C)</li> </ul>

		<p><b>Subsection C</b>, prescription only for medicinal or therapeutic purposes in the usual course of treatment or for research; prohibition on prescribing with knowledge that controlled substance will be used otherwise- moved to new §54.1-3408.002(A)</p> <p><b>Subsection E</b>, prescribing to close contacts of diagnosed patient - moved to new § 54.1-3408.002(E)</p> <p><b>Subsections G and H</b> - these are already covered in sections governing prescriptive authority of NPs and PAs; this duplicative language is removed from the bill</p> <p><b>Subsection I</b>, prescriptive authority of TPA certified optometrists - moved to § 54.1-3222, governing prescriptive authority of TPA certified optometrists</p> <p><b>Subsection J</b>, when requirements of bona fide practitioner-patient relationship deemed satisfied by member or committee of hospital's medical staff - moved to new § 54.1-3408.002(F)</p> <p><b>Subsection K</b> - when prescriber may authorize RN or LPN to approve additional refills of prescription drugs - moved to new § 54.1-3408.002(G)</p>
§ 54.1-3401	<b>Definitions</b>	Amends definition of “prescriber” to include language from § 54.1-3408(A)
§ 54.1-3408	<p><b>Professional use by practitioners.</b></p> <p>This section currently addresses prescribing, administering and dispensing of drugs and devices by prescribers.</p>	<p>This section is repealed and replaced with new § 54.1-3408.001.</p> <p>See document “Proposed Changes to § 54.1-3408 - Changes by Subsection” for explanation.</p> <p>Generally, proposed changes split currently § 54.1-3408, moving language relating to prescribing to Chapter 33 or §§ 54.1-3408.002 or 54.1-3408.01 and dispensing to a new § 54.1-3410.1. Language relating to administering drugs and devices is moved to a new § 54.1-3408.001.</p>
<p>§ 54.1-3408.002</p> <p><b>NEW SECTION</b></p>	<p><b>Requirements for prescriptions; issuance by prescriber; bona fide practitioner-patient or veterinarian-client-patient relationship required; exceptions</b></p>	<p><b>Subsection A</b>, requirement for bona fide relationship with patient - moved from § 54.1-3303(B), ¶1; also includes language regarding prescriptions for medicinal or therapeutic purposes from § 54.1-3303(C)</p> <p><b>Subsection B</b>, when bona fide practitioner-patient relationship established - moved from § 54.1-3303(B), ¶ 2</p> <p><b>Subsection C</b>, when bona fide veterinarian-client-patient relationship established - moved from § 54.1-3303(B), ¶ 5</p>

		<p><b>Subsection D</b>, what a prescriber may prescribe, including prescribing when using telemedicine - moved from § 54.1-3303(B), ¶ 3 and ¶4</p> <p><b>Subsection E</b>, prescribing to close contacts of diagnosed patient - moved from § 54.1-3303(E)</p> <p><b>Subsection F</b>, when requirements of bona fide practitioner-patient relationship deemed satisfied by member or committee of hospital's medical staff - moved from §54.1-3303(J)</p> <p><b>Subsection G</b>, when prescriber may authorize RN or LPN to approve additional refills of prescription drugs - moved from § 54.1-3303(K)</p> <p><b>Subsection H</b>, nothing shall interfere with prescriber issuing prescriptions in compliance with his authority and scope of practice, etc., to an agent of the Board for use pursuant to subsection G of §18.2-258.1 - moved from § 54.1-3408(R)</p>
§ 54.1-3408.01	<p><b>Requirements for prescriptions</b></p> <p>ADDING: form of prescription</p>	<p><b>Subsection A (new)</b> - moved from current subsection B of this section; also includes language from § 54.1-3408(B)</p> <p><b>Subsection B (new)</b>; renumbered from subsection A to subsection B; language in ¶ 3 moved to a new ¶ 4.</p> <p><b>Subsection B (current)</b>, form of orders for administration to certain patients; how such orders transmitted - moved to § 54.1-3408.02, new subsection B (will be subsection C effective July 1, 2020)</p> <p><b>Subsection C (current)</b>, transmission of oral prescriptions - moved to § 54.1-3408.02, new subsection C (will be subsection D effective July 1, 2020)_</p>
§ 54.1-3408.02	<p><b>Transmission of prescriptions</b></p> <p>Section is now about how prescriptions are transmitted</p>	<p><b>Subsection B (new)</b> (will be subsection C effective July 1, 2020) - form of orders for administration to certain patients; how such orders transmitted - moved from §54.1-3408.01(B)</p> <p><b>Subsection C (new)</b> (will be subsection D effective July 1, 2020) - transmission of oral prescriptions - moved from §54.1-3408.01(C)</p>
§ 54.1-3410.2  NEW SECTION	<p><b>Dispensing by persons other than pharmacist.</b></p>	<p><b>Subsection A</b>, dispensing of controlled substances by prescribers - moved from § 54.1-3408(A)</p> <p><b>Subsection B</b>, dispensing of certain drugs and devices when the State Health Commissioner has declared a disaster or state of emergency - moved from § 54.1-3408(P)</p>

<b>§ 54.1-3431.1</b>  <b>NEW SECTION</b>	<b>Dispensing of naloxone or other opioid antagonist; possess and administration of naloxone or other opioid antagonist</b>	Language taken from subsection X and Y of § 54.1-3408
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SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact §§ 32.1-50.2, 54.1-3222, 54.1-3303, as it is currently effective and as it  
2 shall become effective, 54.1-3401, as it shall become effective and as it shall become effective,  
3 54.1-3408.01, and 54.1-3408.02, as it is currently effective and as it shall become effective, of the  
4 Code of Virginia; to amend the Code of Virginia by adding in Article 1 of Chapter 34 of Title 54.1  
5 sections numbered 54.1-3408.001, 54.1-3408.002, 54.1-3410.3, 54.1-3431.1, 54.1-3431.2, and  
6 54.1-3431.3; and to repeal § 54.1-3408 of the Code of Virginia relating to prescribing,  
7 administering, and dispensing drugs and devices.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 32.1-50.2, 54.1-3222, 54.1-3303, as it is currently effective and as it shall become effective**  
10 **, 54.1-3401, as it shall become effective and as it shall become effective , 54.1-3408.01, and 54.1-**  
11 **3408.02, as it is currently effective and as it shall become effective, of the Code of Virginia are**  
12 **amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter**  
13 **34 of Title 54.1 sections numbered 54.1-3408.001, 54.1-3408.002, 54.1-3410.3, 54.1-3431.1, 54.1-**  
14 **3431.2, and 54.1-3431.3 as follows:**

15 **§ 32.1-50.2. Administration of tuberculin purified protein derivative by nurses; policies and**  
16 **guidelines.**

17 The Department shall issue policies and guidelines governing the possession and administration  
18 of tuberculin purified protein derivative (PPD) by registered nurses and licensed practical nurses pursuant  
19 to § ~~54.1-3408~~ 54.1-3408.001. Such policies and guidelines shall be consistent with applicable guidelines  
20 developed by the Centers for Disease Control and Prevention and updated to incorporate any subsequently  
21 implemented standards of the U.S. Occupational Safety and Health Administration and the Department of  
22 Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and  
23 guidelines. Such policies and guidelines shall ensure that standing protocols for the administration of  
24 tuberculin purified protein derivative (PPD) by registered nurses and licensed practical nurses pursuant to  
25 § 54.1-3408.001 shall explicitly describe the categories of persons to whom the tuberculin test is to be

26 administered and shall provide for appropriate medical evaluation of those in whom the test is positive  
27 and shall require that the prescriber ensure that the registered nurse or licensed practical nurse  
28 implementing such standing protocol has received adequate training in the practice and principles  
29 underlying tuberculin screening.

30 **§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions**  
31 **with therapeutic pharmaceutical agents (TPAs).**

32 A. The Board shall certify an optometrist to prescribe for and treat diseases or abnormal conditions  
33 of the human eye and its adnexa with therapeutic pharmaceutical agents (TPAs), if the optometrist files a  
34 written application, accompanied by the fee required by the Board and satisfactory proof that the applicant:

35 1. Is licensed by the Board as an optometrist and certified to administer diagnostic pharmaceutical  
36 agents pursuant to Article 4 (§ 54.1-3220 et seq.);

37 2. Has satisfactorily completed such didactic and clinical training programs for the treatment of  
38 diseases and abnormal conditions of the eye and its adnexa as are determined, after consultation with a  
39 school or college of optometry and a school of medicine, to be reasonable and necessary by the Board to  
40 ensure an appropriate standard of medical care for patients; and

41 3. Passes such examinations as are determined to be reasonable and necessary by the Board to  
42 ensure an appropriate standard of medical care for patients.

43 B. TPA certification shall ~~enable~~ authorize an optometrist to prescribe and administer, or to  
44 provide manufacturers' samples of, controlled substances specified on the TPA-Formulary established  
45 pursuant to § 54.1-3223 for medicinal or therapeutic purposes in good faith and within ~~his~~ the scope of  
46 his professional practice, ~~Schedule II controlled substances consisting of hydrocodone in combination~~  
47 ~~with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the~~  
48 ~~Drug Control Act (§ 54.1-3400 et seq.)~~ to treat diseases and abnormal conditions of the human eye and its  
49 adnexa as determined by the Board, within the following conditions:

50 1. Treatment with oral therapeutic pharmaceutical agents shall be limited to (i) analgesics included  
51 on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et  
52 seq.) consisting of hydrocodone in combination with acetaminophen, ~~and;~~ (ii) analgesics included on

53 Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act, which are  
54 appropriate to alleviate ocular pain; and ~~(ii)~~ (iii) other Schedule VI controlled substances as defined in §  
55 54.1-3455 of the Drug Control Act appropriate to treat diseases and abnormal conditions of the human  
56 eye and its adnexa.

57 2. ~~Therapeutic Treatment with topical therapeutic~~ pharmaceutical agents shall ~~include~~ be limited  
58 to topically applied Schedule VI drugs as defined in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et  
59 seq.).

60 3. ~~Administration of Treatment with~~ therapeutic pharmaceutical agents by injection shall be  
61 limited to the ~~treatment of chalazia by means of (i)~~ injection of a steroid included in Schedule VI controlled  
62 substances as set forth in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.) for the treatment of  
63 chalazia and (ii) intramuscular injection of epinephrine for treatment of emergency cases of anaphylactic  
64 shock. A TPA-certified optometrist shall provide written evidence to the Board that he has completed a  
65 didactic and clinical training course provided by an accredited school or college of optometry that includes  
66 training in administration of TPAs by injection prior to administering TPAs, other than epinephrine  
67 administered in accordance with clause (ii), by injection pursuant to this subdivision.

68 4. Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.

69 5. Treatment of infantile or congenital glaucoma shall be prohibited.

70 6. Treatment through surgery or other invasive modalities shall not be permitted, except as  
71 provided in subdivision 3 or for treatment of emergency cases of anaphylactic shock with intramuscular  
72 epinephrine.

73 7. Entities permitted or licensed by the Board of Pharmacy to distribute or dispense drugs,  
74 including, but not limited to, wholesale distributors and pharmacists, shall be authorized to supply TPA-  
75 certified optometrists with those therapeutic pharmaceutical agents specified by the Board on the TPA-  
76 Formulary.

77 § 54.1-3303. (Effective July 1, 2020) ~~Prescriptions to be issued and drugs to be dispensed for~~  
78 ~~medical or therapeutic purposes only~~ Bona fide practitioner-patient-pharmacist relationship  
79 required for dispensing.

80 A. ~~A prescription for a controlled substance may be issued only by a practitioner of medicine,~~  
81 ~~osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled~~  
82 ~~substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant~~  
83 ~~pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of~~  
84 ~~Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued~~  
85 ~~only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or~~  
86 ~~veterinarian-client patient relationship.~~

87 For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in  
88 which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his  
89 patient for a medicinal or therapeutic purpose within the course of his professional practice. ~~In addition, a~~  
90 ~~bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or~~  
91 ~~drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug~~  
92 ~~being prescribed; (iii) perform or have performed an appropriate examination of the patient, either~~  
93 ~~physically or by the use of instrumentation and diagnostic equipment through which images and medical~~  
94 ~~records may be transmitted electronically; except for medical emergencies, the examination of the patient~~  
95 ~~shall have been performed by the practitioner himself, within the group in which he practices, or by a~~  
96 ~~consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-~~  
97 ~~up care, if necessary, especially if a prescribed drug may have serious side effects. A practitioner who~~  
98 ~~performs or has performed an appropriate examination of the patient required pursuant to clause (iii),~~  
99 ~~either physically or by the use of instrumentation and diagnostic equipment through which images and~~  
100 ~~medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-~~  
101 ~~patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided~~  
102 ~~that the prescribing of such Schedule II through V controlled substance is in compliance with federal~~  
103 ~~requirements for the practice of telemedicine.~~

104 For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine  
105 services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient  
106 relationship by an examination through face-to-face interactive, two-way, real-time communications

107 ~~services or store and forward technologies when all of the following conditions are met: (a) the patient~~  
108 ~~has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an~~  
109 ~~updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of~~  
110 ~~prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate~~  
111 ~~to the patient's age and presenting condition, including when the standard of care requires the use of~~  
112 ~~diagnostic testing and performance of a physical examination, which may be carried out through the use~~  
113 ~~of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the~~  
114 ~~Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or~~  
115 ~~carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and~~  
116 ~~the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier~~  
117 ~~pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely~~  
118 ~~manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and~~  
119 ~~regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient~~  
120 ~~relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care~~  
121 ~~dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall~~  
122 ~~apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his~~  
123 ~~prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding~~  
124 ~~a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.~~

125 ~~For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a~~  
126 ~~veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he~~  
127 ~~is consulting has assumed the responsibility for making medical judgments regarding the health of and~~  
128 ~~providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in §~~  
129 ~~3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and~~  
130 ~~a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has~~  
131 ~~consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a~~  
132 ~~veterinarian has assumed responsibility for making medical judgments regarding the health of and~~  
133 ~~providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence~~

134 ~~that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to~~  
135 ~~provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural~~  
136 ~~animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either~~  
137 ~~physically or by the use of instrumentation and diagnostic equipment through which images and medical~~  
138 ~~records may be transmitted electronically or has become familiar with the care and keeping of that species~~  
139 ~~of animal or bee on the premises of the client, including other premises within the same operation or~~  
140 ~~production system of the client, through medically appropriate and timely visits to the premises at which~~  
141 ~~the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.~~

142 ~~Any practitioner who prescribes any controlled substance with the knowledge that the controlled~~  
143 ~~substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the~~  
144 ~~criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution~~  
145 ~~or possession of controlled substances.~~

146 B. In order to determine whether a prescription that appears questionable to the pharmacist results  
147 from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner  
148 or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person  
149 knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248  
150 for violations of the provisions of law relating to the sale, distribution or possession of controlled  
151 substances.

152 No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist  
153 relationship. ~~A prescription not issued in the usual course of treatment or for authorized research is not a~~  
154 ~~valid prescription.~~

155 C. ~~Notwithstanding any provision of law to the contrary and consistent with recommendations of~~  
156 ~~the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe~~  
157 ~~Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient~~  
158 ~~when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined~~  
159 ~~in subsection A, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner~~  
160 ~~deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the~~

161 practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in  
162 subsection A, for the close contact except for the physical examination required in clause (iii) of subsection  
163 A; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening  
164 illness, or serious disability. In cases in which the practitioner is an employee of or contracted by the  
165 Department of Health or a local health department, the bona fide practitioner-patient relationship with the  
166 diagnosed patient, as required by clause (i), shall not be required.

167 ~~D.C.~~ A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-  
168 state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse  
169 practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with  
170 the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

171 ~~E.~~ A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to §  
172 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled  
173 substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient  
174 for a medicinal or therapeutic purpose within the scope of his professional practice.

175 ~~F.~~ A licensed physician assistant who is authorized to prescribe controlled substances pursuant to  
176 § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled  
177 substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient  
178 for a medicinal or therapeutic purpose within the scope of his professional practice.

179 ~~G.~~ A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to  
180 Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide  
181 manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope  
182 of his professional practice for the drugs specified on the TPA Formulary, established pursuant to § 54.1-  
183 3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in  
184 § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with  
185 acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and  
186 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii)  
187 other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act,

188 appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically  
189 applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular  
190 administration of epinephrine for treatment of emergency cases of anaphylactic shock.

191 H. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied  
192 by a member or committee of a hospital's medical staff when approving a standing order or protocol for  
193 the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance  
194 with § 32.1-126.4.

195 I. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or  
196 licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive  
197 days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the  
198 prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the  
199 nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the  
200 nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol  
201 and the additional refills are transmitted to a pharmacist in accordance with the allowances for an  
202 authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-  
203 3408.01 and regulations of the Board.

204 § 54.1-3303. (Effective until July 1, 2020) ~~Prescriptions to be issued and drugs to be dispensed~~  
205 ~~for medical or therapeutic purposes only~~ Bona fide practitioner-patient-pharmacist relationship  
206 required for dispensing.

207 A. A prescription for a controlled substance may be issued only by a practitioner of medicine,  
208 osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled  
209 substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant  
210 pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of  
211 Chapter 32.

212 B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona  
213 fide practitioner-patient relationship or veterinarian-client-patient relationship.



214 A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused  
215 to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the  
216 benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate  
217 examination of the patient, either physically or by the use of instrumentation and diagnostic equipment  
218 through which images and medical records may be transmitted electronically; and (iv) initiated additional  
219 interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side  
220 effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii)  
221 shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in  
222 the same group as the practitioner prescribing the controlled substance, or a consulting practitioner. In  
223 cases in which the practitioner is an employee of the Department of Health and is providing expedited  
224 partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention,  
225 the examination required by clause (iii) shall not be required.

226 A practitioner who has established a bona fide practitioner-patient relationship with a patient in  
227 accordance with the provisions of this subsection may prescribe Schedule II through VI controlled  
228 substances to that patient, provided that, in cases in which the practitioner has performed the examination  
229 required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images  
230 and medical records may be transmitted electronically, the prescribing of such Schedule II through V  
231 controlled substance is in compliance with federal requirements for the practice of telemedicine.

232 For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine  
233 services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient  
234 relationship by an examination through face-to-face interactive, two-way, real-time communications  
235 services or store-and-forward technologies when all of the following conditions are met: (a) the patient  
236 has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an  
237 updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of  
238 prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate  
239 to the patient's age and presenting condition, including when the standard of care requires the use of  
240 diagnostic testing and performance of a physical examination, which may be carried out through the use

241 of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the  
242 Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or  
243 carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and  
244 the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier  
245 pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely  
246 manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and  
247 regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient  
248 relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care  
249 dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall  
250 apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his  
251 prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding  
252 a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

253 For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a  
254 veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he  
255 is consulting has assumed the responsibility for making medical judgments regarding the health of and  
256 providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in §  
257 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and  
258 a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has  
259 consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a  
260 veterinarian has assumed responsibility for making medical judgments regarding the health of and  
261 providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence  
262 that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to  
263 provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural  
264 animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either  
265 physically or by the use of instrumentation and diagnostic equipment through which images and medical  
266 records may be transmitted electronically or has become familiar with the care and keeping of that species  
267 of animal or bee on the premises of the client, including other premises within the same operation or

268 ~~production system of the client, through medically appropriate and timely visits to the premises at which~~  
269 ~~the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.~~

270 ~~C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of~~  
271 ~~treatment or for authorized research. A prescription not issued in the usual course of treatment or for~~  
272 ~~authorized research is not a valid prescription. A practitioner who prescribes any controlled substance~~  
273 ~~with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic~~  
274 ~~purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions~~  
275 ~~of law relating to the distribution or possession of controlled substances.~~

276 ~~D.~~ No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship  
277 exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner  
278 prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or  
279 therapeutic purpose within the course of his professional practice.

280 In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship  
281 exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his  
282 agent and verify the identity of the patient and name and quantity of the drug prescribed.

283 Any person knowingly filling an invalid prescription shall be subject to the criminal penalties  
284 provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession  
285 of controlled substances.

286 ~~E. Notwithstanding any provision of law to the contrary and consistent with recommendations of~~  
287 ~~the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe~~  
288 ~~Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient~~  
289 ~~when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined~~  
290 ~~in subsection B, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner~~  
291 ~~deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the~~  
292 ~~practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in~~  
293 ~~subsection B, for the close contact except for the physical examination required in clause (iii) of subsection~~

294 ~~B; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening~~  
295 ~~illness, or serious disability.~~

296 ~~F. B. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-~~  
297 ~~state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse~~  
298 ~~practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with~~  
299 ~~the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).~~

300 ~~G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to~~  
301 ~~§ 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled~~  
302 ~~substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient~~  
303 ~~for a medicinal or therapeutic purpose within the scope of his professional practice.~~

304 ~~H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to~~  
305 ~~§ 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled~~  
306 ~~substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient~~  
307 ~~for a medicinal or therapeutic purpose within the scope of his professional practice.~~

308 ~~I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to~~  
309 ~~Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide~~  
310 ~~manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope~~  
311 ~~of his professional practice for the drugs specified on the TPA Formulary, established pursuant to § 54.1-~~  
312 ~~3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in~~  
313 ~~§ 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with~~  
314 ~~acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and~~  
315 ~~54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii)~~  
316 ~~other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act,~~  
317 ~~appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically~~  
318 ~~applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular~~  
319 ~~administration of epinephrine for treatment of emergency cases of anaphylactic shock.~~

320 ~~J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied~~  
321 ~~by a member or committee of a hospital's medical staff when approving a standing order or protocol for~~  
322 ~~the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance~~  
323 ~~with § 32.1-126.4.~~

324 ~~K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or~~  
325 ~~licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive~~  
326 ~~days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the~~  
327 ~~prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the~~  
328 ~~nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the~~  
329 ~~nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol~~  
330 ~~and the additional refills are transmitted to a pharmacist in accordance with the allowances for an~~  
331 ~~authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-~~  
332 ~~3408.01 and regulations of the Board.~~

333 **§ 54.1-3401. (Effective July 1, 2020) Definitions.**

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

335 "Administer" means the direct application of a controlled substance, whether by injection,  
336 inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner  
337 or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and  
338 in the presence of the practitioner.

339 "Advertisement" means all representations disseminated in any manner or by any means, other  
340 than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the  
341 purchase of drugs or devices.

342 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,  
343 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or  
344 employee of the carrier or warehouseman.

345 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically  
346 related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

347 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

348 "Automated drug dispensing system" means a mechanical or electronic system that performs  
349 operations or activities, other than compounding or administration, relating to pharmacy services,  
350 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of  
351 all transaction information, to provide security and accountability for such drugs.

352 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood  
353 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or  
354 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic  
355 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human  
356 beings.

357 "Biosimilar" means a biological product that is highly similar to a specific reference biological  
358 product, notwithstanding minor differences in clinically inactive compounds, such that there are no  
359 clinically meaningful differences between the reference biological product and the biological product that  
360 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of  
361 the product.

362 "Board" means the Board of Pharmacy.

363 "Bulk drug substance" means any substance that is represented for use, and that, when used in the  
364 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a  
365 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are  
366 used in the synthesis of such substances.

367 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means  
368 (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns  
369 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership,  
370 or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the  
371 outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a  
372 wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting  
373 stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the

374 merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary  
375 owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's  
376 charter.

377 "Co-licensed partner" means a person who, with at least one other person, has the right to engage  
378 in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

379 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into  
380 a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by  
381 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or  
382 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in  
383 expectation of receiving a valid prescription based on observed historical patterns of prescribing and  
384 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an  
385 incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course  
386 of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical  
387 analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's  
388 product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine  
389 or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner  
390 pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed  
391 nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered  
392 compounding.

393 "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through  
394 VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those  
395 terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled  
396 substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory  
397 authority in subsection D of § 54.1-3443.

398 "Controlled substance analog" means a substance the chemical structure of which is substantially  
399 similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a  
400 stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar

401 to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a  
402 controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person  
403 represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous  
404 system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on  
405 the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog"  
406 does not include (a) any substance for which there is an approved new drug application as defined under  
407 § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as  
408 safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21  
409 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance  
410 for which an exemption is in effect for investigational use for that person under § 505 of the federal Food,  
411 Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such  
412 exemption; or (c) any substance to the extent not intended for human consumption before such an  
413 exemption takes effect with respect to that substance.

414 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor  
415 agency.

416 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated  
417 by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI  
418 prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a  
419 manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor,  
420 warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics  
421 provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

422 "Device" means instruments, apparatus, and contrivances, including their components, parts, and  
423 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man  
424 or animals or to affect the structure or any function of the body of man or animals.

425 "Dialysis care technician" or "dialysis patient care technician" means an individual who is certified  
426 by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1  
427 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or



428 a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-  
429 certified renal dialysis facility.

430 "Dialysis solution" means either the commercially available, unopened, sterile solutions whose  
431 purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal  
432 dialysis, or commercially available solutions whose purpose is to be used in the performance of  
433 hemodialysis not to include any solutions administered to the patient intravenously.

434 "Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the  
435 lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or  
436 compounding necessary to prepare the substance for that delivery. However, dispensing shall not include  
437 the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites  
438 operated by such practitioner or that practitioner's medical practice for the purpose of administration of  
439 such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For  
440 practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a  
441 practitioner to patients to take with them away from the practitioner's place of practice.

442 "Dispenser" means a practitioner who dispenses.

443 "Distribute" means to deliver other than by administering or dispensing a controlled substance.

444 "Distributor" means a person who distributes.

445 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia  
446 National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to  
447 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or  
448 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the  
449 structure or any function of the body of man or animals; (iv) articles or substances intended for use as a  
450 component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not  
451 include devices or their components, parts, or accessories.

452 "Drug product" means a specific drug in dosage form from a known source of manufacture,  
453 whether by brand or therapeutically equivalent drug product name.

454 "Electronic prescription" means a written prescription that is generated on an electronic application  
455 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be  
456 transmitted in accordance with 21 C.F.R. Part 1300.

457 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an  
458 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy  
459 form.

460 "FDA" means the U.S. Food and Drug Administration.

461 "Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include  
462 any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

463 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by  
464 regulation designates as being the principal compound commonly used or produced primarily for use, and  
465 which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled  
466 substance, the control of which is necessary to prevent, curtail, or limit manufacture.

467 "Interchangeable" means a biosimilar that meets safety standards for determining  
468 interchangeability pursuant to 42 U.S.C. § 262(k)(4).

469 "Label" means a display of written, printed, or graphic matter upon the immediate container of any  
470 article. A requirement made by or under authority of this chapter that any word, statement, or other  
471 information appear on the label shall not be considered to be complied with unless such word, statement,  
472 or other information also appears on the outside container or wrapper, if any, of the retail package of such  
473 article or is easily legible through the outside container or wrapper.

474 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its  
475 containers or wrappers, or accompanying such article.

476 "Manufacture" means the production, preparation, propagation, conversion, or processing of any  
477 item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin,  
478 or independently by means of chemical synthesis, or by a combination of extraction and chemical  
479 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its  
480 container. This term does not include compounding.

481 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a  
482 repackager.

483 "Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or  
484 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its  
485 seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless  
486 such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include  
487 the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such  
488 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis.  
489 Marijuana shall not include industrial hemp as defined in § 3.2-4112 that is possessed by a person  
490 registered pursuant to subsection A of § 3.2-4115 or his agent.

491 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to  
492 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles,  
493 medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no  
494 medicinal properties that are used for the operation and cleaning of medical equipment, solutions for  
495 peritoneal dialysis, and sterile water or saline for irrigation.

496 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction  
497 from substances of vegetable origin, or independently by means of chemical synthesis, or by a  
498 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,  
499 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof  
500 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not  
501 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and  
502 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative,  
503 or preparation thereof which is chemically equivalent or identical with any of these substances, but not  
504 including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

505 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing  
506 a new animal drug, the composition of which is such that such drug is not generally recognized, among  
507 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as

508 safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,  
509 except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to  
510 the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and  
511 if at such time its labeling contained the same representations concerning the conditions of its use, or (ii)  
512 any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the  
513 composition of which is such that such drug, as a result of investigations to determine its safety and  
514 effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than  
515 in such investigations, been used to a material extent or for a material time under such conditions.

516 "Nuclear medicine technologist" means an individual who holds a current certification with the  
517 American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification  
518 Board.

519 "Official compendium" means the official United States Pharmacopoeia National Formulary,  
520 official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

521 "Official written order" means an order written on a form provided for that purpose by the U.S.  
522 Drug Enforcement Administration, under any laws of the United States making provision therefor, if such  
523 order forms are authorized and required by federal law, and if no such order form is provided then on an  
524 official form provided for that purpose by the Board of Pharmacy.

525 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability  
526 similar to morphine or being capable of conversion into a drug having such addiction-forming or  
527 addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article  
528 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
529 (dextromethorphan). It does include its racemic and levorotatory forms.

530 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

531 "Original package" means the unbroken container or wrapping in which any drug or medicine is  
532 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for  
533 use in the delivery or display of such article.

534 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is  
535 currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and  
536 that complies with all applicable requirements of federal and state law, including the Federal Food, Drug,  
537 and Cosmetic Act.

538 "Person" means both the plural and singular, as the case demands, and includes an individual,  
539 partnership, corporation, association, governmental agency, trust, or other institution or entity.

540 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the  
541 application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant  
542 pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale  
543 and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the  
544 pharmacy and the pharmacy's personnel as required by § 54.1-3432.

545 "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

546 "Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01,  
547 licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified  
548 optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator,  
549 or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and  
550 administer, or conduct research with respect to a controlled substance in the course of professional practice  
551 or research in the Commonwealth.

552 "Prescriber" means a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary  
553 medicine who is authorized ~~pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription~~ prescribe  
554 controlled substances; a licensed physician assistant who is authorized to prescribe controlled substances  
555 in accordance with § 54.1-2952.1; a licensed nurse practitioner who is authorized to prescribe controlled  
556 substances in accordance with § 54.1-2957.01; or a TPA-certified optometrist who is authorized to  
557 prescribe controlled substances in accordance with Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

558 "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by  
559 word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed

560 physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such  
561 drugs or medical supplies.

562 "Prescription drug" means any drug required by federal law or regulation to be dispensed only  
563 pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of  
564 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

565 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting  
566 of a controlled substance or marijuana.

567 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,  
568 original package which does not contain any controlled substance or marijuana as defined in this chapter  
569 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general  
570 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name,  
571 or other trade symbol privately owned, and the labeling of which conforms to the requirements of this  
572 chapter and applicable federal law. However, this definition shall not include a drug that is only advertised  
573 or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that  
574 may be dispensed only upon prescription or the label of which bears substantially the statement "Warning  
575 — may be habit-forming," or a drug intended for injection.

576 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei  
577 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or  
578 radionuclide generator that is intended to be used in the preparation of any such substance, but does not  
579 include drugs such as carbon-containing compounds or potassium-containing salts that include trace  
580 quantities of naturally occurring radionuclides. The term also includes any biological product that is  
581 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

582 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.  
583 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and  
584 Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42  
585 U.S.C. § 262(k).

586 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any  
587 person, whether as an individual, proprietor, agent, servant, or employee.

588 "Therapeutically equivalent drug products" means drug products that contain the same active  
589 ingredients and are identical in strength or concentration, dosage form, and route of administration and  
590 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant  
591 to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the  
592 Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange  
593 Book."

594 "Third-party logistics provider" means a person that provides or coordinates warehousing of or  
595 other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale  
596 distributor, or dispenser of the drug or device but does not take ownership of the product or have  
597 responsibility for directing the sale or disposition of the product.

598 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

599 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party  
600 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or  
601 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription  
602 devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state  
603 or local tax by reason of this definition.

604 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than  
605 consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or  
606 consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain  
607 Security Act.

608 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed  
609 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

610 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter  
611 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses  
612 or lenses for the eyes.

613 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be  
614 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

615 **§ 54.1-3401. (Effective until July 1, 2020) Definitions.**

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

617 "Administer" means the direct application of a controlled substance, whether by injection,  
618 inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner  
619 or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and  
620 in the presence of the practitioner.

621 "Advertisement" means all representations disseminated in any manner or by any means, other  
622 than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the  
623 purchase of drugs or devices.

624 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,  
625 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or  
626 employee of the carrier or warehouseman.

627 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically  
628 related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

629 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

630 "Automated drug dispensing system" means a mechanical or electronic system that performs  
631 operations or activities, other than compounding or administration, relating to pharmacy services,  
632 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of  
633 all transaction information, to provide security and accountability for such drugs.

634 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood  
635 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or  
636 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic  
637 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human  
638 beings.



639 "Biosimilar" means a biological product that is highly similar to a specific reference biological  
640 product, notwithstanding minor differences in clinically inactive compounds, such that there are no  
641 clinically meaningful differences between the reference biological product and the biological product that  
642 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of  
643 the product.

644 "Board" means the Board of Pharmacy.

645 "Bulk drug substance" means any substance that is represented for use, and that, when used in the  
646 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a  
647 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are  
648 used in the synthesis of such substances.

649 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means  
650 (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns  
651 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership,  
652 or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the  
653 outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a  
654 wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting  
655 stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the  
656 merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary  
657 owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's  
658 charter.

659 "Co-licensed partner" means a person who, with at least one other person, has the right to engage  
660 in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

661 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into  
662 a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by  
663 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or  
664 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in  
665 expectation of receiving a valid prescription based on observed historical patterns of prescribing and

666 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an  
667 incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course  
668 of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical  
669 analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's  
670 product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine  
671 or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner  
672 pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed  
673 nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered  
674 compounding.

675 "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through  
676 VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those  
677 terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled  
678 substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory  
679 authority in subsection D of § 54.1-3443.

680 "Controlled substance analog" means a substance the chemical structure of which is substantially  
681 similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a  
682 stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar  
683 to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a  
684 controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person  
685 represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous  
686 system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on  
687 the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog"  
688 does not include (a) any substance for which there is an approved new drug application as defined under  
689 § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as  
690 safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21  
691 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance  
692 for which an exemption is in effect for investigational use for that person under § 505 of the federal Food,

693 Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such  
694 exemption; or (c) any substance to the extent not intended for human consumption before such an  
695 exemption takes effect with respect to that substance.

696 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor  
697 agency.

698 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated  
699 by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI  
700 prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a  
701 manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor,  
702 warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics  
703 provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

704 "Device" means instruments, apparatus, and contrivances, including their components, parts, and  
705 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man  
706 or animals or to affect the structure or any function of the body of man or animals.

707 "Dialysis care technician" or "dialysis patient care technician" means an individual who is certified  
708 by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1  
709 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or  
710 a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-  
711 certified renal dialysis facility.

712 "Dialysis solution" means either the commercially available, unopened, sterile solutions whose  
713 purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal  
714 dialysis, or commercially available solutions whose purpose is to be used in the performance of  
715 hemodialysis not to include any solutions administered to the patient intravenously.

716 "Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the  
717 lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or  
718 compounding necessary to prepare the substance for that delivery. However, dispensing shall not include  
719 the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites

720 operated by such practitioner or that practitioner's medical practice for the purpose of administration of  
721 such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For  
722 practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a  
723 practitioner to patients to take with them away from the practitioner's place of practice.

724 "Dispenser" means a practitioner who dispenses.

725 "Distribute" means to deliver other than by administering or dispensing a controlled substance.

726 "Distributor" means a person who distributes.

727 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia  
728 National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to  
729 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or  
730 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the  
731 structure or any function of the body of man or animals; (iv) articles or substances intended for use as a  
732 component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not  
733 include devices or their components, parts, or accessories.

734 "Drug product" means a specific drug in dosage form from a known source of manufacture,  
735 whether by brand or therapeutically equivalent drug product name.

736 "Electronic transmission prescription" means any prescription, other than an oral or written  
737 prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly  
738 to a pharmacy without interception or intervention from a third party from a practitioner authorized to  
739 prescribe or from one pharmacy to another pharmacy.

740 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an  
741 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy  
742 form.

743 "FDA" means the U.S. Food and Drug Administration.

744 "Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include  
745 any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

746 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by  
747 regulation designates as being the principal compound commonly used or produced primarily for use, and  
748 which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled  
749 substance, the control of which is necessary to prevent, curtail, or limit manufacture.

750 "Interchangeable" means a biosimilar that meets safety standards for determining  
751 interchangeability pursuant to 42 U.S.C. § 262(k)(4).

752 "Label" means a display of written, printed, or graphic matter upon the immediate container of any  
753 article. A requirement made by or under authority of this chapter that any word, statement, or other  
754 information appear on the label shall not be considered to be complied with unless such word, statement,  
755 or other information also appears on the outside container or wrapper, if any, of the retail package of such  
756 article or is easily legible through the outside container or wrapper.

757 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its  
758 containers or wrappers, or accompanying such article.

759 "Manufacture" means the production, preparation, propagation, conversion, or processing of any  
760 item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin,  
761 or independently by means of chemical synthesis, or by a combination of extraction and chemical  
762 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its  
763 container. This term does not include compounding.

764 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a  
765 repackager.

766 "Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or  
767 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its  
768 seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless  
769 such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include  
770 the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such  
771 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis.  
772 Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person

773 registered pursuant to subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-  
774 4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from  
775 industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or  
776 federal law.

777 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to  
778 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles,  
779 medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no  
780 medicinal properties that are used for the operation and cleaning of medical equipment, solutions for  
781 peritoneal dialysis, and sterile water or saline for irrigation.

782 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction  
783 from substances of vegetable origin, or independently by means of chemical synthesis, or by a  
784 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,  
785 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof  
786 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not  
787 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and  
788 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative,  
789 or preparation thereof which is chemically equivalent or identical with any of these substances, but not  
790 including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

791 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing  
792 a new animal drug, the composition of which is such that such drug is not generally recognized, among  
793 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as  
794 safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,  
795 except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to  
796 the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and  
797 if at such time its labeling contained the same representations concerning the conditions of its use, or (ii)  
798 any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the  
799 composition of which is such that such drug, as a result of investigations to determine its safety and

800 effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than  
801 in such investigations, been used to a material extent or for a material time under such conditions.

802 "Nuclear medicine technologist" means an individual who holds a current certification with the  
803 American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification  
804 Board.

805 "Official compendium" means the official United States Pharmacopoeia National Formulary,  
806 official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

807 "Official written order" means an order written on a form provided for that purpose by the U.S.  
808 Drug Enforcement Administration, under any laws of the United States making provision therefor, if such  
809 order forms are authorized and required by federal law, and if no such order form is provided then on an  
810 official form provided for that purpose by the Board of Pharmacy.

811 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability  
812 similar to morphine or being capable of conversion into a drug having such addiction-forming or  
813 addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article  
814 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
815 (dextromethorphan). It does include its racemic and levorotatory forms.

816 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

817 "Original package" means the unbroken container or wrapping in which any drug or medicine is  
818 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for  
819 use in the delivery or display of such article.

820 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is  
821 currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and  
822 that complies with all applicable requirements of federal and state law, including the Federal Food, Drug,  
823 and Cosmetic Act.

824 "Person" means both the plural and singular, as the case demands, and includes an individual,  
825 partnership, corporation, association, governmental agency, trust, or other institution or entity.

826 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the  
827 application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant  
828 pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale  
829 and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the  
830 pharmacy and the pharmacy's personnel as required by § 54.1-3432.

831 "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

832 "Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01,  
833 licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified  
834 optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator,  
835 or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and  
836 administer, or conduct research with respect to a controlled substance in the course of professional practice  
837 or research in the Commonwealth.

838 "Prescriber" means a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary  
839 medicine who is authorized ~~pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription~~ prescribe  
840 controlled substances; a licensed physician assistant who is authorized to prescribe controlled substances  
841 in accordance with § 54.1-2952.1; a licensed nurse practitioner who is authorized to prescribe controlled  
842 substances in accordance with § 54.1-2957.01; or a TPA-certified optometrist who is authorized to  
843 prescribe controlled substances in accordance with Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

844 "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by  
845 word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed  
846 physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such  
847 drugs or medical supplies.

848 "Prescription drug" means any drug required by federal law or regulation to be dispensed only  
849 pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of  
850 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

851 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting  
852 of a controlled substance or marijuana.



853 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,  
854 original package which does not contain any controlled substance or marijuana as defined in this chapter  
855 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general  
856 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name,  
857 or other trade symbol privately owned, and the labeling of which conforms to the requirements of this  
858 chapter and applicable federal law. However, this definition shall not include a drug that is only advertised  
859 or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that  
860 may be dispensed only upon prescription or the label of which bears substantially the statement "Warning  
861 — may be habit-forming," or a drug intended for injection.

862 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei  
863 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or  
864 radionuclide generator that is intended to be used in the preparation of any such substance, but does not  
865 include drugs such as carbon-containing compounds or potassium-containing salts that include trace  
866 quantities of naturally occurring radionuclides. The term also includes any biological product that is  
867 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

868 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.  
869 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and  
870 Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42  
871 U.S.C. § 262(k).

872 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any  
873 person, whether as an individual, proprietor, agent, servant, or employee.

874 "Therapeutically equivalent drug products" means drug products that contain the same active  
875 ingredients and are identical in strength or concentration, dosage form, and route of administration and  
876 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant  
877 to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the  
878 Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange  
879 Book."

880 "Third-party logistics provider" means a person that provides or coordinates warehousing of or  
881 other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale  
882 distributor, or dispenser of the drug or device but does not take ownership of the product or have  
883 responsibility for directing the sale or disposition of the product.

884 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

885 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party  
886 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or  
887 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription  
888 devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state  
889 or local tax by reason of this definition.

890 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than  
891 consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or  
892 consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain  
893 Security Act.

894 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed  
895 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

896 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter  
897 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses  
898 or lenses for the eyes.

899 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be  
900 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

901 **§ 54.1-3408.001. Permitted administration of drugs and devices.**

902 **A. Drugs and devices may be administered as follows:**

903 **1. A prescriber may administer drugs and devices provided such possession and administration is**  
904 **in good faith for medicinal or therapeutic purposes, within the course of his professional practice.**

905 **2. A medical intern may administer drugs and devices under the direction and supervision of a**  
906 **prescriber.**

907 3. A physician assistant may administer drugs and devices under the direction and supervision of  
908 a prescriber. A physician assistant may also possess and administer topical fluoride varnish pursuant to an  
909 oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or  
910 dentistry.

911 4. A registered nurse may administer drugs and devices under the direction and supervision of a  
912 prescriber. A registered nurse may also:

913 a. Possess epinephrine and oxygen for administration in treatment of emergency medical  
914 conditions, pursuant to an oral or written order or standing protocol issued by the prescriber within the  
915 course of his professional practice;

916 b. Possess heparin and sterile normal saline to use for the maintenance of intravenous access lines,  
917 pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his  
918 professional practice;

919 c. Administer vaccinations to adults for immunization when the prescriber is not physically  
920 present, pursuant to the authorization of a prescriber issued pursuant to a protocol approved by the Board  
921 of Nursing;

922 d. Administer vaccines to any person when the prescriber is not physically present, in accordance  
923 with the authorization of a prescriber acting on behalf of and in accordance with established protocols of  
924 the Department of Health;

925 e. Possess and administer topical fluoride varnish pursuant to an oral or written order or a standing  
926 protocol issued by a doctor of medicine, osteopathic medicine, or dentistry; and

927 f. Administer influenza vaccine to minors when the prescriber is not physically present, pursuant  
928 to the authorization of a prescriber acting in accordance with guidelines developed pursuant to § 32.1-  
929 46.02.

930 A registered nurse who:

931 (1) Has received adequate training in the practice and principles underlying tuberculin screening  
932 may possess and administer tuberculin purified protein derivative (PPD) in the absence of the prescriber,  
933 pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his

934 professional practice, and in accordance with policies and guidelines established by the Department of  
935 Health pursuant to § 32.1-50.2;

936 (2) Is acting as an agent of the Department of Health may possess and administer tuberculin  
937 purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on  
938 protocols and policies established by the Department of Health, at his discretion, pursuant to the  
939 authorization of the Health Commissioner or his designee; and

940 (3) Is certified as a sexual assault nurse examiner-A (SANE-A) may possess and administer  
941 preventive medications for victims of sexual assault as recommended by the Centers for Disease Control  
942 and Prevention when the prescriber is not physically present, pursuant to an oral or written order or  
943 standing protocol issued by the prescriber within the course of his professional practice.

944 5. A licensed practical nurse may administer drugs and devices under the direction and supervision  
945 of a prescriber. A licensed practical nurse may also:

946 a. Possess epinephrine and oxygen for administration in treatment of emergency medical  
947 conditions, pursuant to an oral or written order or standing protocol issued by the prescriber within the  
948 course of his professional practice;

949 b. Possess heparin and sterile normal saline to use for the maintenance of intravenous access lines,  
950 pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his  
951 professional practice;

952 c. Administer vaccinations to adults for immunization when the prescriber is not physically  
953 present, pursuant to the authorization of a prescriber issued pursuant to a protocol approved by the Board  
954 of Nursing and under the supervision of a registered nurse;

955 d. Administer vaccines to any person when the prescriber is not physically present, in accordance  
956 with the authorization of a prescriber acting on behalf of and in accordance with established protocols of  
957 the Department of Health;

958 e. Administer influenza vaccine to minors when the prescriber is not physically present, pursuant  
959 to the authorization of a prescriber acting in accordance with guidelines developed pursuant to § 32.1-  
960 46.02 and under the direction and immediate supervision of a registered nurse; and

961 f. Possess and administer topical fluoride varnish, pursuant to an oral or written order or a standing  
962 protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

963 A licensed practical nurse who has received adequate training in the practice and principles  
964 underlying tuberculin screening may possess and administer tuberculin purified protein derivative (PPD)  
965 in the absence of the prescriber, pursuant to an oral or written order or standing protocol issued by the  
966 prescriber within the course of his professional practice, in accordance with policies and guidelines  
967 established by the Department of Health pursuant to § 32.1-50.2, and under the supervision of a registered  
968 nurse.

969 6. A person who is trained to administer drugs and devices to patients in state-owned or state-  
970 operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed  
971 by the Department of Behavioral Health and Developmental Services may administer drugs and devices  
972 under the control and supervision of the prescriber or a pharmacist.

973 7. A licensed respiratory therapist as defined in § 54.1-2954 may administer inhalation controlled  
974 substances for the purpose of inhalation or respiratory therapy.

975 8. An emergency medical services provider who:

976 a. Holds an emergency medical technician certification may possess and administer epinephrine  
977 in emergency cases of anaphylactic shock pursuant to regulations of the Board of Health;

978 b. Holds an advanced life support certificate issued by the Commissioner of Health may administer  
979 vaccines to any person when the prescriber is not physically present, pursuant to the authorization of a  
980 prescriber acting on behalf of and in accordance with established protocols of the Department of Health  
981 and under the direction of an operational medical director. Such emergency medical services provider  
982 shall provide documentation of each vaccine administered pursuant to this subdivision to the Department  
983 of Health, to be recorded in the Virginia Immunization Information System; and

984 c. Holds an advance life support certification issued by the Commissioner of Health may  
985 administer influenza vaccine to minors when the prescriber is not physically present, pursuant to the  
986 authorization of a prescriber acting in accordance with the guidelines developed pursuant to § 32.1-46.02.

987 9. An individual who is employed by or a member of an emergency medical services agency and  
988 who provides emergency medical services pursuant to an emergency medical services agency license  
989 issued to that agency by the Commissioner of Health and in accordance with the authorization of that  
990 agency's operational medical director who is certified and authorized to administer drugs and devices  
991 pursuant to regulations of the Board of Health may administer drugs and devices within the scope of such  
992 certification and pursuant to an oral or written order or standing protocol.

993 10. A pharmacist may:

994 a. Possess epinephrine and oxygen for administration in treatment of emergency medical  
995 conditions, pursuant to an oral or written order or standing protocol issued by the prescriber within the  
996 course of his professional practice;

997 b. Administer vaccinations to adults for immunization when the prescriber is not physically  
998 present, pursuant to an authorization of a prescriber issued in accordance with a protocol approved by the  
999 Board of Nursing;

1000 c. Administer vaccines to any person when the prescriber is not physically present, in accordance  
1001 with the authorization of a prescriber acting on behalf of and in accordance with established protocols of  
1002 the Department of Health; and

1003 d. Administer influenza vaccine to minors when the prescriber is not physically present, pursuant  
1004 to the authorization of a prescriber acting in accordance with guidelines developed pursuant to § 32.1-  
1005 46.02.

1006 11. A physical therapist may possess and administer topical corticosteroids, topical lidocaine, and  
1007 any other Schedule VI topical drug, pursuant to an oral or written order or standing protocol issued by the  
1008 prescriber within the course of his professional practice.

1009 12. A licensed athletic trainer may possess and administer topical corticosteroids, topical lidocaine,  
1010 or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in  
1011 emergency cases of anaphylactic shock, pursuant to an oral or written order or standing protocol issued  
1012 by the prescriber within the course of his professional practice.

1013 13. A person who has been properly trained to assist a doctor of medicine or osteopathic medicine  
1014 may administer controlled substances pursuant to a specific order for a patient and under the direct and  
1015 immediate supervision of the prescriber, provided the method does not include intravenous, intrathecal,  
1016 or epidural administration and the prescriber remains responsible for such administration.

1017 14. A nuclear medicine technologist may administer radiopharmaceuticals used in the diagnosis  
1018 or treatment of disease pursuant to an oral or written order or standing protocol issued by a prescriber who  
1019 is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his  
1020 practice, under the supervision of the prescriber.

1021 15. A dental hygienist may:

1022 a. Administer Schedule VI topical drugs under the direction and supervision of a dentist;

1023 b. Possess and administer topical oral fluorides, topical oral anesthetics, topical and directly  
1024 applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical  
1025 drug approved by the Board of Dentistry pursuant to a written order and in accordance with a standing  
1026 protocol issued by a dentist in the course of his professional practice, under the general supervision, as  
1027 defined in § 54.1-2722, or remote supervision, as defined in subsection E or F of § 54.1-2722, of the  
1028 dentist;

1029 c. Administer Schedule VI nitrous oxide and oxygen inhalation analgesia administered to any  
1030 person and Schedule VI local anesthesia administered to persons 18 years of age or older, pursuant to the  
1031 authorization and under the direct supervision of a dentist; and

1032 d. Possess and administer topical fluoride varnish pursuant to an oral or written order or a standing  
1033 protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

1034 16. An agent of a dentist may administer controlled substances consisting of Schedule VI topical  
1035 drugs under the direction and supervision of a dentist.

1036 17. An employee of a provider licensed by the Department of Behavioral Health and  
1037 Developmental Services or a person providing services pursuant to a contract with a provider licensed by  
1038 the Department of Behavioral Health and Developmental Services who:

1039 a. Is authorized and trained in the administration of epinephrine may possess and administer  
1040 epinephrine, pursuant to an order issued by the prescriber within the course of his professional practice;  
1041 b. Has been trained in the administration of glucagon may administer glucagon to a person for  
1042 whom glucagon has been prescribed for the emergency treatment of hypoglycemia, pursuant to a written  
1043 order issued by the prescriber within the course of his professional practice; and  
1044 c. Has been trained in the administration of insulin may possess and may assist in the  
1045 administration of insulin to a person diagnosed as having diabetes and who requires insulin injections.

1046 18. A school board employee who:

1047 a. Is authorized by a prescriber and trained in the administration of epinephrine may administer  
1048 epinephrine pursuant to an order or standing protocol issued by the prescriber in the course of his  
1049 professional practice;  
1050 b. Has been trained in the administration of glucagon may possess and administer glucagon to a  
1051 person for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, pursuant  
1052 to a written order issued by the prescriber within the course of his professional practice, but only in cases  
1053 when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the  
1054 administration of such glucagon;  
1055 c. Has been trained in the administration of insulin may possess and may assist in the  
1056 administration of insulin to a person diagnosed as having diabetes and who requires insulin injections,  
1057 pursuant to a written order issued by the prescriber within the course of his professional practice, but only  
1058 in cases when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to  
1059 perform the administration of such insulin; and

1060 d. Is trained in the administration of injected medications for the treatment of adrenal crisis  
1061 resulting from a condition causing adrenal insufficiency may administer such medication to a student  
1062 diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing  
1063 or about to experience an adrenal crisis, pursuant to written order or standing protocol issued by the  
1064 prescriber within the course of his professional practice, but only when a licensed nurse, nurse practitioner,



1065 physician, or physician assistant is not present to perform the administration of the medication and with  
1066 the consent of the parents as defined in § 22.1-1.

1067 19. An employee of a private school that is accredited pursuant to § 22.1-19 as administered by  
1068 the Virginia Council for Private Education who:

1069 a. Is authorized by a prescriber and trained in the administration of epinephrine may possess and  
1070 administer epinephrine pursuant to an order or a standing protocol issued by the prescriber within the  
1071 course of his professional practice;

1072 b. Has been trained in the administration of glucagon may administer glucagon to a person for  
1073 whom glucagon has been prescribed for the emergency treatment of hypoglycemia, pursuant to a written  
1074 order issued by the prescriber within the course of his professional practice, but only in cases when a  
1075 licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the  
1076 administration of such glucagon;

1077 c. Has been trained in the administration of insulin may possess and may assist in the  
1078 administration of insulin to a person diagnosed as having diabetes and who requires insulin injections,  
1079 pursuant to a written order issued by the prescriber within the course of his professional practice, but only  
1080 in cases when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to  
1081 perform the administration of such insulin; and

1082 d. Is trained in the administration of injected medications for the treatment of adrenal crisis  
1083 resulting from a condition causing adrenal insufficiency may administer such medication to a student  
1084 diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing  
1085 or about to experience an adrenal crisis, pursuant to written order or standing protocol issued by the  
1086 prescriber within the course of his professional practice, but only when a licensed nurse, nurse practitioner,  
1087 physician, or physician assistant is not present to perform the administration of the medication and with  
1088 the consent of the parents as defined in § 22.1-1.

1089 20. A school nurse who is authorized by a prescriber and trained in the administration of  
1090 epinephrine may possess and administer epinephrine pursuant to an order or standing protocol issued by  
1091 the prescriber in the course of his professional practice.

1092 21. An employee of a local governing body who is authorized by a prescriber and trained in the  
1093 administration of epinephrine may possess and administer epinephrine pursuant to an order or standing  
1094 protocol issued by the prescriber in the course of his professional practice.

1095 22. An employee of a local health department who is authorized by a prescriber and trained in the  
1096 administration of epinephrine may possess and administer epinephrine pursuant to an order or standing  
1097 protocol issued by the prescriber in the course of his professional practice.

1098 23. An employee of a school for students with disabilities, as defined in § 22.1-319 and licensed  
1099 by the Board of Education, who:

1100 a. Is authorized by a prescriber and trained in the administration of epinephrine may possess and  
1101 administer epinephrine pursuant to an order or a standing protocol issued by the prescriber within the  
1102 course of his professional practice;

1103 b. Has been trained in the administration of glucagon may administer glucagon to a person for  
1104 whom glucagon has been prescribed for the emergency treatment of hypoglycemia, pursuant to a written  
1105 order issued by the prescriber within the course of his professional practice, but only in cases when a  
1106 licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the  
1107 administration of such glucagon;

1108 c. Has been trained in the administration of insulin may possess and may assist in the  
1109 administration of insulin to a person diagnosed as having diabetes and who requires insulin injections,  
1110 pursuant to a written order issued by the prescriber within the course of his professional practice, but only  
1111 in cases when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to  
1112 perform the administration of such insulin; and

1113 d. Is trained in the administration of injected medications for the treatment of adrenal crisis  
1114 resulting from a condition causing adrenal insufficiency may administer such medication to a student  
1115 diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing  
1116 or about to experience an adrenal crisis, pursuant to written order or standing protocol issued by the  
1117 prescriber within the course of his professional practice, but only when a licensed nurse, nurse practitioner,

1118 physician, or physician assistant is not present to perform the administration of the medication and with  
1119 the consent of the parents as defined in § 22.1-1.

1120 24. An employee of a public or private institution of higher education who:

1121 a. Is authorized by a prescriber and trained in the administration of epinephrine may possess and  
1122 administer epinephrine pursuant to an order or a standing protocol issued by the prescriber within the  
1123 course of his professional practice;

1124 b. Is trained in the administration of glucagon may administer glucagon to a person for whom  
1125 glucagon has been prescribed for the emergency treatment of hypoglycemia, pursuant to a written order  
1126 issued by the prescriber within the course of his professional practice, but only in cases when a licensed  
1127 nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of  
1128 such glucagon; and

1129 c. Is trained in the administration of insulin may assist with the administration of insulin to a  
1130 student diagnosed as having diabetes and who requires insulin pursuant to a written order or standing  
1131 protocol issued by the prescriber within the course of his professional practice, but only when a licensed  
1132 nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of  
1133 such insulin.

1134 25. An employee of an organization providing outdoor educational experiences or programs for  
1135 youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and  
1136 administer epinephrine, pursuant to an order or a standing protocol issued by the prescriber within the  
1137 course of his professional practice.

1138 26. A medication aide registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et  
1139 seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any  
1140 assisted living facility licensed by the Department of Social Services, provided he administers such drugs  
1141 in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of  
1142 administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security  
1143 and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in

1144 accordance with such other regulations governing the practice of medication aides promulgated by the  
1145 Board of Nursing.

1146 27. A person not otherwise authorized to administer drugs pursuant to this section who has  
1147 satisfactorily completed a training program on the administration of drugs that would normally be self-  
1148 administered that is approved by the Board of Nursing and who administers drugs that would normally be  
1149 self-administered in accordance with the prescriber's instructions pertaining to dosage, frequency, and  
1150 manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy  
1151 relating to security and recordkeeping, may administer drugs that would normally be self-administered to:

1152 a. An individual receiving services in a program licensed by the Department of Behavioral Health  
1153 and Developmental Services;

1154 b. A resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired;

1155 c. A resident of a facility approved by the Board or Department of Juvenile Justice for the  
1156 placement of children in need of services or delinquent or alleged delinquent youth;

1157 d. A program participant of an adult day-care center licensed by the Department of Social Services;

1158 e. A resident of any facility authorized or operated by a state or local government whose primary  
1159 purpose is not to provide health care services;

1160 f. A resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the  
1161 Department of Social Services, Department of Education, or Department of Behavioral Health and  
1162 Developmental Services; and

1163 g. A student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the  
1164 Board of Education.

1165 28. A person not otherwise authorized to administer drugs pursuant to this section who administers  
1166 such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of  
1167 administration and with written authorization of a parent, and in accordance with school board regulations  
1168 relating to training, security, and recordkeeping, may administer drugs that would normally be self-  
1169 administered by a student of a public school in the Commonwealth. Training for such persons shall be

1170 accomplished through a program approved by the local school boards, in consultation with the local  
1171 departments of health.

1172 29. A person not otherwise authorized to administer drugs pursuant to this section who (i) has  
1173 satisfactorily completed a training program on the administration of drugs approved by the Board of  
1174 Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant,  
1175 doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a  
1176 parent or guardian; (iii) administers drugs only to the child identified on the prescription label in  
1177 accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of  
1178 administration; and (iv) administers only those drugs that were dispensed from a pharmacy and maintained  
1179 in the original, labeled container that would normally be self-administered by the child or student, or  
1180 administered by a parent or guardian to the child or student, may administer drugs to:

1181 a. A child in a child day program as defined in § 63.2-100 and regulated by the State Board of  
1182 Social Services or a local government pursuant to § 15.2-914; and

1183 b. A student of a private school that is accredited pursuant to § 22.1-19 as administered by the  
1184 Virginia Council for Private Education.

1185 30. A person not otherwise authorized to administer drugs and devices pursuant to this section who  
1186 is authorized by the State Health Commissioner in accordance with protocols established by the State  
1187 Health Commissioner pursuant to § 32.1-42.1 may administer drugs and devices when (i) the Governor  
1188 has declared a disaster or a state of emergency or the U.S. Secretary of Health and Human Services has  
1189 issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health  
1190 emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons  
1191 have received the training necessary to safely administer the needed drugs or devices. Such persons shall  
1192 administer all drugs or devices under the direction, control, and supervision of the State Health  
1193 Commissioner.

1194 31. A person who is authorized to administer controlled substances in a hospital may administer  
1195 influenza or pneumococcal vaccines in accordance with § 32.1-126.4.

1196 B. This section shall not prohibit the administration of drugs via percutaneous gastrostomy tube to  
1197 a person receiving services from a program licensed by the Department of Behavioral Health and  
1198 Developmental Services by a person who has successfully completed a training program for the  
1199 administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and who  
1200 has been evaluated by a registered nurse as having demonstrated competency in administering drugs via  
1201 percutaneous gastrostomy tube. The continued competency of a person to administer drugs via  
1202 percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

1203 **§ 54.1-3408.002. Requirements for prescriptions; issuance by prescriber; bona fide**  
1204 **practitioner-patient or veterinarian-client-patient relationship required; exceptions.**

1205 A. A prescription for a controlled substance shall only be issued by a prescriber to persons or  
1206 animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-  
1207 patient relationship and shall only be issued in good faith for medicinal or therapeutic purposes within the  
1208 course of the prescriber's professional practice and in the usual course of treatment or for authorized  
1209 research. A prescription that is not issued in the usual course of treatment or for authorized research is not  
1210 a valid prescription. A prescriber who prescribes any controlled substance with the knowledge that the  
1211 controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to  
1212 the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the  
1213 distribution or possession of controlled substances.

1214 B. A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or  
1215 caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient  
1216 about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an  
1217 appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic  
1218 equipment through which images and medical records may be transmitted electronically; and (iv) initiated  
1219 additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious  
1220 side effects. Except in cases involving a medical emergency, the examination required pursuant to clause  
1221 (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who  
1222 practices in the same group as the practitioner prescribing the controlled substance, or a consulting

1223 practitioner. In cases in which the practitioner is an employee of the Department of Health and is providing  
1224 expedited partner therapy consistent with the recommendations of the Centers for Disease Control and  
1225 Prevention, the examination required by clause (iii) shall not be required.

1226 C. A bona fide veterinarian-client-patient relationship shall exist if the veterinarian, another  
1227 veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has  
1228 assumed the responsibility for making medical judgments regarding the health of and providing medical  
1229 treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of  
1230 agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the  
1231 owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such  
1232 treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has  
1233 assumed responsibility for making medical judgments regarding the health of and providing medical  
1234 treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian  
1235 (i) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or  
1236 preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (ii)  
1237 has made an examination of the animal, group of agricultural animals, or bees, either physically or by the  
1238 use of instrumentation and diagnostic equipment through which images and medical records may be  
1239 transmitted electronically or has become familiar with the care and keeping of that species of animal or  
1240 bee on the premises of the client, including other premises within the same operation or production system  
1241 of the client, through medically appropriate and timely visits to the premises at which the animal, group  
1242 of agricultural animals, or bees are kept; and (iii) is available to provide follow-up care.

1243 D. A prescriber who has established a bona fide practitioner-patient relationship with a patient may  
1244 prescribe Schedule II through VI controlled substances to that patient.

1245 A prescriber who has performed the examination necessary to establish a bona fide practitioner-  
1246 patient relationship through face-to-face interactive, two-way, real-time communications services or store-  
1247 and-forward technologies may prescribe Schedule VI controlled substances to a patient via telemedicine  
1248 services, as defined in § 38.2-3418.16, if (i) the patient has provided a medical history that is available for  
1249 review by the prescriber; (ii) the prescriber obtains an updated medical history at the time of prescribing;

1250 (iii) the prescriber makes a diagnosis at the time of prescribing; (iv) the prescriber conforms to the standard  
1251 of care expected of in-person care as appropriate to the patient's age and presenting condition, including  
1252 when the standard of care requires the use of diagnostic testing and performance of a physical examination,  
1253 which may be carried out through the use of peripheral devices appropriate to the patient's condition; (v)  
1254 the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (vi) if the patient is  
1255 a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or  
1256 carrier as a participating provider and the diagnosing and prescribing meets the qualifications for  
1257 reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (vii) upon request, the  
1258 prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-  
1259 127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a  
1260 prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a  
1261 Schedule VI controlled substance when the standard of care dictates that an in-person physical  
1262 examination is necessary for diagnosis. Nothing in this paragraph shall apply to (a) a prescriber providing  
1263 on-call coverage per an agreement with another prescriber or his prescriber's professional entity or  
1264 employer; (b) a prescriber consulting with another prescriber regarding a patient's care; or (c) orders of  
1265 prescribers for hospital out-patients or in-patients.

1266 A prescriber who has performed the examination necessary to establish a bona fide practitioner-  
1267 patient relationship by use of instrumentation and diagnostic equipment through which images and  
1268 medical records may be transmitted electronically may prescribe Schedule II through VI controlled  
1269 substances to that patient, provided the prescribing of such Schedule II through V controlled substance is  
1270 in compliance with federal requirements for the practice of telemedicine.

1271 E. Notwithstanding any provision of law to the contrary and consistent with recommendations of  
1272 the Centers for Disease Control and Prevention or the Department of Health, a prescriber may prescribe  
1273 Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient  
1274 when (i) the prescriber has established a bona fide practitioner-patient relationship with the diagnosed  
1275 patient; (ii) in the prescriber's professional judgment, the prescriber deems there is urgency to begin  
1276 treatment to prevent the transmission of a communicable disease; (iii) the prescriber has met all



1277 requirements necessary to establish a bona fide practitioner-patient relationship with the close contact  
1278 except for the physical examination required in clause (iii) of subsection B; and (iv) when such emergency  
1279 treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability.

1280 F. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied  
1281 by a member or committee of a hospital's medical staff when approving a standing order or protocol for  
1282 the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance  
1283 with § 32.1-126.4.

1284 G. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or  
1285 licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive  
1286 days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the  
1287 prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the  
1288 nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the  
1289 nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol  
1290 and the additional refills are transmitted to a pharmacist in accordance with the allowances for an  
1291 authorized agent to transmit a prescription orally or by facsimile pursuant to § 54.1-3408.01 and  
1292 regulations of the Board.

1293 H. This section shall not interfere with any prescriber issuing prescriptions in compliance with his  
1294 authority and scope of practice and the provisions of this section to a Board agent for use pursuant to  
1295 subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid  
1296 prescriptions.

1297 **§ 54.1-3408.01. Requirements for prescriptions; form of prescription.**

1298 A. The A prescription may be made in writing, including in the form of a written chart order, or  
1299 orally.

1300 B. A written prescription-referred to in § 54.1-3408 shall be written with ink or individually typed  
1301 or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A  
1302 prescription for a controlled substance other than one controlled in Schedule VI shall also contain the  
1303 federal controlled substances registration number assigned to the prescriber. The prescriber's information

1304 shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped,  
1305 or printed by hand.

1306 ~~The Every~~ written prescription shall contain the first and last name of the patient for whom the  
1307 drug is prescribed. The address of the patient shall either be placed upon the written prescription by the  
1308 prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the  
1309 dispenser may record the address of the patient in an electronic prescription dispensing record for that  
1310 patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed  
1311 by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's  
1312 signature.

1313 ~~This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified~~  
1314 ~~in Schedule VI if all requirements concerning dates, signatures, and other information specified above are~~  
1315 ~~otherwise fulfilled.~~

1316 No written prescription order form shall include more than one prescription. However, this  
1317 provision shall not apply (i) to prescriptions written as chart orders for patients in hospitals and long-term-  
1318 care facilities, patients receiving home infusion services, or hospice patients, ~~or~~ (ii) to a prescription  
1319 ordered through a pharmacy operated by or for the Department of Corrections or the Department of  
1320 Juvenile Justice, the central pharmacy of the Department of Health, or the central outpatient pharmacy  
1321 operated by the Department of Behavioral Health and Developmental Services; or (iii) to prescriptions  
1322 written for patients residing in adult and juvenile detention centers, local or regional jails, or work release  
1323 centers operated by the Department of Corrections.

1324 ~~This subsection shall not prohibit a prescriber from using preprinted prescriptions for drugs~~  
1325 ~~classified in Schedule VI if all requirements concerning dates, signatures, and other information specified~~  
1326 ~~above are otherwise fulfilled.~~

1327 ~~B. Prescribers' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV,~~  
1328 ~~and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by~~  
1329 ~~a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous,~~  
1330 ~~intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from~~

1331 ~~a remote location, may be transmitted to that remote pharmacy by an electronic communications device~~  
1332 ~~over telephone lines which send the exact image to the receiver in hard copy form, and such facsimile~~  
1333 ~~copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a~~  
1334 ~~physician authorized by state or federal law to possess and administer medical radioactive materials may~~  
1335 ~~authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for~~  
1336 ~~radiopharmaceuticals.~~

1337 ~~C. The oral prescription referred to in § 54.1-3408 shall be transmitted to the pharmacy of the~~  
1338 ~~patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized~~  
1339 ~~agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal~~  
1340 ~~supervision, or if not an employee, an individual who holds a valid license allowing the administration or~~  
1341 ~~dispensing of drugs and who is specifically directed by the prescriber.~~

1342 **§ 54.1-3408.02. (Effective until July 1, 2020) Transmission of prescriptions.**

1343 A. Consistent with federal law and in accordance with regulations promulgated by the Board,  
1344 prescriptions may be transmitted to a pharmacy by electronic transmission or by facsimile machine and  
1345 shall be treated as valid original prescriptions.

1346 B. A written prescription, including a written chart order, for Schedules II, III, IV, and V controlled  
1347 substances to be administered to (i) patients or residents of long-term care facilities served by a pharmacy  
1348 in the Commonwealth from a remote location or (ii) patients receiving parenteral, intravenous,  
1349 intramuscular, subcutaneous, or intraspinal infusion therapy and served by a home infusion pharmacy  
1350 from a remote location may be transmitted to that remote pharmacy by an electronic communications  
1351 device over telephone lines that send the exact image to the receiver in hard copy form, and such facsimile  
1352 copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a  
1353 physician authorized by state or federal law to possess and administer medical radioactive materials may  
1354 authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for  
1355 radiopharmaceuticals.

1356 C. An oral prescription shall be transmitted to the pharmacy of the patient's choice by the prescriber  
1357 or his authorized agent. For the purposes of this subsection, an authorized agent of the prescriber shall be

1358 an employee of the prescriber who is under his immediate and personal supervision, or if not an employee,  
1359 an individual who holds a valid license allowing the administration or dispensing of drugs and who is  
1360 specifically directed by the prescriber.

1361 **§ 54.1-3408.02. (Effective July 1, 2020) Transmission of prescriptions.**

1362 A. Consistent with federal law and in accordance with regulations promulgated by the Board,  
1363 prescriptions may be transmitted to a pharmacy as an electronic prescription or by facsimile machine and  
1364 shall be treated as valid original prescriptions.

1365 B. Any prescription for a controlled substance that contains an opiate shall be issued as an  
1366 electronic prescription.

1367 C. A written prescription, including a written chart order, for Schedules II, III, IV, and V controlled  
1368 substances to be administered to (i) patients or residents of long-term care facilities served by a pharmacy  
1369 in the Commonwealth from a remote location or (ii) patients receiving parenteral, intravenous,  
1370 intramuscular, subcutaneous, or intraspinal infusion therapy and served by a home infusion pharmacy  
1371 from a remote location may be transmitted to that remote pharmacy by an electronic communications  
1372 device over telephone lines that send the exact image to the receiver in hard copy form, and such facsimile  
1373 copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a  
1374 physician authorized by state or federal law to possess and administer medical radioactive materials may  
1375 authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for  
1376 radiopharmaceuticals.

1377 D. An oral prescription shall be transmitted to the pharmacy of the patient's choice by the prescriber  
1378 or his authorized agent. For the purposes of this subsection, an authorized agent of the prescriber shall be  
1379 an employee of the prescriber who is under his immediate and personal supervision, or if not an employee,  
1380 an individual who holds a valid license allowing the administration or dispensing of drugs and who is  
1381 specifically directed by the prescriber.

1382 **§ 54.1-3410.3. Dispensing of drugs and devices by person other than pharmacist.**

1383 A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine; a licensed  
1384 nurse practitioner acting in accordance with § 54.1-2957.01, a licensed physician assistant acting in

1385 accordance with § 54.1-2952.1, or a TPA-certified optometrist acting in accordance with Article 5 (§ 54.1-  
1386 3222 et seq.) of Chapter 32 may dispense controlled substances provided such dispensing is in good faith  
1387 for medicinal or therapeutic purposes within the course of his professional practice.

1388 B. A person who is authorized by the State Health Commissioner in accordance with protocols  
1389 established by the State Health Commissioner pursuant to § 32.1-42.1 may dispense drugs and devices  
1390 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of  
1391 Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other  
1392 actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or  
1393 devices; and (iii) such persons have received the training necessary to safely administer or dispense the  
1394 needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction,  
1395 control, and supervision of the State Health Commissioner.

1396 **§ 54.1-3431.1. Dispensing of naloxone or other opioid antagonist; possession and**  
1397 **administration of naloxone or other opioid antagonist.**

1398 A. Notwithstanding the provisions of § 54.1-3303 or this chapter, a pharmacist, a health care  
1399 provider providing services in a hospital emergency department, and emergency medical services  
1400 personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used  
1401 for overdose reversal, provided that such dispensing is pursuant to an oral, written, or standing order issued  
1402 by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the  
1403 dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or  
1404 written order for a specific patient issued by a prescriber, and in accordance with protocols developed by  
1405 the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

1406 B. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf  
1407 of an organization that provides services to individuals at risk of experiencing an opioid overdose or  
1408 training in the administration of naloxone for overdose reversal may dispense naloxone to a person who  
1409 has received instruction on the administration of naloxone for opioid overdose reversal, provided that such  
1410 dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols  
1411 developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of

1412 Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation  
1413 with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral  
1414 Health and Developmental Services to train individuals on the proper administration of naloxone by and  
1415 proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration  
1416 from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such  
1417 controlled substance registration. The dispensing may occur at a site other than that of the controlled  
1418 substance registration provided the entity possessing the controlled substances registration maintains  
1419 records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on  
1420 behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that  
1421 is greater than the cost to the organization of obtaining the naloxone dispensed.

1422 C. Notwithstanding the provisions of § 54.1-3408.001, the following individuals may possess and  
1423 administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to  
1424 be experiencing or about to experience a life-threatening opioid overdose:

1425 1. A person to whom naloxone or other opioid antagonist has been dispensed in accordance with  
1426 subsection A;

1427 2. A person to whom naloxone or other opioid antagonist has been dispensed in accordance with  
1428 subsection B; and

1429 3. A law-enforcement officer as defined in § 9.1-101, an employee of the Department of Forensic  
1430 Science, an employee of the Office of the Chief Medical Examiner, an employee of the Department of  
1431 General Services Division of Consolidated Laboratory Services, an employee of the Department of  
1432 Corrections designated as a probation and parole officer or correctional officer as defined in § 53.1-1, an  
1433 employee of a regional jail, a school nurse, a local health department employee who is assigned to a public  
1434 school pursuant to an agreement between the local health department and the school board, a school board  
1435 employee or individual contracted by a school board to provide school health services, and a firefighter  
1436 who has completed a training program for the administration of naloxone or other opioid antagonist for  
1437 overdose reversal who administer naloxone or other opioid antagonist for overdose reversal pursuant to  
1438 an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner

1439 of Health or his designee in accordance with protocols developed by the Board of Pharmacy in  
1440 consultation with the Board of Medicine and the Department of Health.

1441 **§ 54.1-3431.2. Administration of certain drugs by an individual in his own home.**

1442 Nothing in this title shall prohibit the administration of normally self-administered drugs by  
1443 unlicensed individuals to a person in his private residence.

1444 **§ 54.1-3431.3. Administration of drugs and devices by dialysis care technicians.**

1445 Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care  
1446 technicians who are certified by an organization approved by the Board of Health Professions or persons  
1447 authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary  
1448 course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical  
1449 needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the  
1450 purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the  
1451 orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct  
1452 supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient  
1453 care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical  
1454 skills instruction segment of a supervised dialysis technician training program, provided such trainee is  
1455 identified as a "trainee" while working in a renal dialysis facility.

1456 The dialysis care technician or dialysis patient care technician administering the medications shall  
1457 have demonstrated competency as evidenced by holding current valid certification from an organization  
1458 approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

1459 **2. That § 54.1-3408 of the Code of Virginia is repealed.**

1460 #

**Title 45.1 Recodification: Outline**  
**10/11/2019**

Underlined text indicates proposed chapter or article number.

**Subtitle I. Administration.**

Ch. 1. Chapter 14.1 Administration (§§ 45.1-161.1 through 45.1-161.6). 7 sections.

Ch. 2. Chapter 25 Division of Geology and Mineral Resources (§§ 45.1-383 through 45.1-389). 7 sections.

Ch. 3. Chapter 20 Interstate Mining Compact (§ 45.1-271) (covers both coal and non-coal). 1 section.

Ch. 4. Chapter 24 Interstate Compact to Conserve Oil and Gas (§§ 45.1-381 through 45.1-382). 2 sections.

**Subtitle II. Coal Mines.**

**Part A. Coal Mines Generally.**

Ch. 5. Chapter 14.2 Coal Mine Safety Act (§§ 45.1-161.7 through 45.1-161.104). 10 articles containing 81 sections.

Ch. 6. Coal Mining Property, Interests, Adjacent Owners, and Dams.

Article 1. Chapter 14.7 Rights of Owners of Land Adjacent to Coal Mines (§§ 45.1-161.310 through 45.1-161.311). 2 sections.

Article 2. Chapter 14.7:2 Trust for Coal Interests (§§ 45.1-161.311:3 through 45.1-161.311:8). 2 articles containing 6 sections.

Article 3. Chapter 14.8 Emergency Seizure of Coal Properties by Commonwealth (§§ 45.1-161.312 through 45.1-161.322). 11 sections.

Article 4. Chapter 18 Coal Mining Refuse Piles, Water and Silt Retaining Dams (§§ 45.1-221 through 45.1-225). 4 sections.

**Part B. Underground Coal Mines.**

Ch. 7. Portion of Chapter 14.3 Requirements Applicable to Underground Coal Mines (§§ 45.1-161.105 through 45.1-161.252) [Articles 1-3, 5-8, 15, and 16]. 9 articles containing approximately 77 sections.

Ch. 8. Portion of Chapter 14.3 Requirements Applicable to Underground Coal Mines (§§ 45.1-161.105 through 45.1-161.252) [Articles 4 and 9-14]. 7 articles containing approximately 64 sections.

**Part C. Surface Coal Mines.**

Ch. 9. Chapter 14.4 Requirements Applicable to Surface Coal Mines (§§ 45.1-161.253 through 45.1-161.292). 13 articles containing 40 sections.

Ch. 10. Chapter 19 Virginia Coal Surface Mining Control and Reclamation Act of 1979 (§§ 45.1-226 through 45.1-270.7). 5 articles containing 54 sections.



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**Subtitle III. Mineral Mines.**

**Part A. Mineral Mines Generally.**

Ch. 11. Chapter 14.4:1 Mineral Mine Safety Act (§§ 45.1-161.292:1 through 45.1-161.292:73). 9 articles containing 69 sections.

Ch. 12. Chapter 16 Permits for Certain Mining Operations; Reclamation of Land (§§ 45.1-180 through 45.1-197.18). 4 articles containing 42 sections.

Ch. 13. Mineral Mining Dams and Adjacent Owners.

Article 1. Chapter 18.1 Mineral Mining Refuse Piles, Water and Silt Retaining Dams (§§ 45.1-225.1 through 45.1-225.3). 3 sections.

Article 2. Chapter 14.7:1 Rights of Owners of Land Adjacent to Mineral Mines (§§ 45.1-161.311:1 through 45.1-161.311:2). 2 sections.

**Part B. Underground Mineral Mines.**

Ch. 14. Chapter 14.5 Requirements Applicable to Underground Mineral Mines (§§ 45.1-161.293 through 45.1-161.303). 11 sections.

**Part C. Surface Mineral Mines.**

Ch. 15. Chapter 14.6 Requirements Applicable to Surface Mineral Mining (§§ 45.1-161.304 through 45.1-161.309). 6 sections.

**Subtitle IV. Oil and Gas.**

Ch. 16. Chapter 22.1 The Virginia Gas and Oil Act (§§ 45.1-361.1 through 45.1-361.44). 4 articles containing 47 sections.

Ch. 17. Title 67 Chapter 3 Offshore Energy Resources (§§ 67-300 through 67-301). 2 sections: Royalties from offshore goes here, wind energy goes in Subtitle V.

**Title 45.1 Recodification: Outline**  
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**Subtitle V. Other Sources of Energy; Energy Policy.**

Ch. 18. Energy Generally.

Chapter 26 Energy Division, Etc. (§§ 45.1-390 through 45.1-394).

2 sections: all forms of energy.

**Title 67** Ch. 1 Energy Policy of the Commonwealth (§§ 67-100 to 67-103).

4 sections: energy policy, objectives, etc., some renewable

**Title 67** Chapter 2 Virginia Energy Plan (§§ 67-200 through 67-203).

5 sections: DMME Div. of Energy develop plan, reporting by utilities.

**Title 67** Ch. 6 Va. Coastal Energy Research Consortium (§§ 67-600 to 604)

5 sections, university group studies waves, wind, oil and gas.

**Title 67** Ch. 9 Renewable Electricity Production Grant Prog. (§§ 67-900 to

903). 2 sections: DMME grants for renewable electricity production.

**Title 67** Ch. 10 Solar and Wind Energy System Acquisition Grant Program

(§§ 67-1000 through 67-1003). Contingent effective date.

4 sections: DMME funding to buy solar/wind.

**Title 67** Ch. 16 Southwest Virginia Energy Research and Development

Authority (§§ 67-1600 through 67-1607). 8 sections: Creates

independent authority, promotes energy development.

Ch. 19. Wind Energy.

**Title 67** Subsection C of § 67-300, wind energy. 1 subsection.

**Title 67** Chapter 12 Virginia Offshore Wind Development Authority (§§ 67-1200 through 67-1211). 12 sections: Political sub., DMME assistance.

Ch. 20. Solar Energy.

**Title 67** Ch. 15 Virginia Solar Energy Development and Energy Storage Auth. (§§ 67-1500 through 67-1509). 10 sections.

Ch. 21. Geothermal Energy.

Chapter 15.1 Geothermal Energy (§§ 45.1-179.1 through 45.1-179.11).

2 articles containing 11 sections.

Ch. 22. Nuclear Energy.

**Title 67** Chapter 14 Virginia Nuclear Energy Consortium (§§ 67-1400 through 67-1406). 7 sections: Authority (DMME, universities) establish Consort.

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Ch. 23. Uranium Mining.

Title 45.1 Chapter 21 Exploration for Uranium Ore (§§ 45.1-272 through 45.1-285.10). 24 sections.

**Portions of Title 67 that are not proposed for incorporation into Title 45.2:**

Title 67 Chapter 4 Clean Coal Projects (§§ 67-400 through 67-402).

We propose to move to new Article 4 in Chapter 13 of Title 10.1, comprising new §§ 10.1-1328 and 10.1-1329.

Title 67 Chapter 5 Biodiesel Fuel (§§ 67-500 through 67-501).

We propose to combine the two sections into one new section numbered 33.2-120 and move to Chapter 1 of Title 33.2.

Title 67 Chapter 7 Covenants Restricting Solar Energy Collection Devices (§§ 67-700 through 67-701).

We propose to combine the two sections into one new section numbered 55.1-1996 and move to new Chapter 19.1 in Subtitle IV of Title 55.1.

Title 67 Chapter 8 Motor Vehicle Fuel Efficiency Standards (§§ 67-800 through 67-801).

We propose to combine the two sections into one new section numbered 33.2-120 and move to Chapter 1 of Title 33.2.

Title 67 Chapter 11 Renewable Energy Co-Location of Distribution Facilities (§§ 67-1100 through 67-1110). Contingent effective date.

We propose to move to new Chapter 29 in Title 56, comprising new §§ 56-614-56-624.

Expired chapter

Title 67 Chapter 13 Voluntary Solar Resource Development Fund [Expired] (§ 67-1300). One section.

1 CHAPTER ~~14.3~~ 7.  
2 REQUIREMENTS APPLICABLE TO UNDERGROUND COAL MINES; MINE  
3 CONSTRUCTION.

4 **Drafting note: Nine articles of existing Chapter 14.3 are retained as proposed**  
5 **Chapter 7, Requirements Applicable to Underground Coal Mines; Mine Construction.**  
6 **The remainder of existing Chapter 14.3 is designated as proposed Chapter 8. The nine**  
7 **articles in this proposed chapter are as follows: Article 1, General Provisions; Article 2,**  
8 **Additional Duties of Certified Persons and Other Miners; Article 3, Proximity of Mining**  
9 **to Gas or Oil Wells or Abandoned Areas; Article 4, Roof, Face, and Rib Control; Article**  
10 **5, Explosives and Blasting; Article 6, Mine Openings and Escapeways; Article 7, Hoisting;**  
11 **Article 8, Transportation; and Article 9, Surface Areas.**

12 Article 1.  
13 General Provisions.

14 **Drafting note: Existing Article 1, concerning general provisions, is retained as**  
15 **proposed Article 1.**

16 § ~~45.1-161.105~~ 45.2-xxx. Scope of chapter.

17 ~~This~~ The provisions of this chapter and Chapter 8 (§ 45.2-xxx et seq.) shall be applicable  
18 apply to the operation of any underground coal mine in the Commonwealth, and shall  
19 supplement the provisions of Chapter ~~14.2~~ 5 (§ ~~45.1-161.7~~ 45.2-xxx et seq.).

20 **Drafting note: Language is updated for modern usage and clarity. The provisions**  
21 **of this chapter are made to apply to both portions of existing Chapter 14.3, which is**  
22 **divided into proposed Chapters 7 and 8.**

23 § ~~45.1-161.106~~ 45.2-xxx. Regulations governing conditions and practices at  
24 underground coal mines.

25 A. The Chief shall have authority, after consultation with the Virginia Coal Mine Safety  
26 Board, created by Article 9 (§ 45.2-xxx [§ 45.1-161.98] et seq.) of Chapter 5, and in accordance  
27 with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act, to  
28 ~~promulgate rules and~~ adopt regulations necessary to ensure safe and healthy working conditions

29 in underground coal mines in the Commonwealth. Such ~~rules and~~ regulations governing  
30 underground coal mines shall relate to:

31 1. The maintenance, operation, storage, and transportation of any mechanical or  
32 electrical equipment, device, or machinery used for any purpose in the underground mining of  
33 coal;

34 2. Safety and health standards for the protection of the life, health, and property of, and  
35 the prevention of injuries to, ~~persons~~ any person involved in or likely to be affected by any  
36 underground coal mining ~~operations which~~ operation. Such standards shall include ~~but not be~~  
37 ~~limited to~~ the control of dust concentration levels; the use of respiratory equipment and  
38 ventilating systems; the development and maintenance of roof control systems; the handling of  
39 combustible materials and rock dusting; the installation, maintenance, and use of electrical  
40 devices, equipment, cables, and wires; fire protection, including equipment, emergency  
41 evacuation plans, emergency shelters, and communication facilities; the use and storage of  
42 explosives; and the establishment and maintenance of barriers in underground coal mines  
43 around gas and oil wells. The Chief is authorized to ~~promulgate~~ adopt regulations setting forth  
44 specific occupations and conditions ~~for~~ under which a miner ~~will be~~ is prohibited from working  
45 alone underground; and

46 3. The storage or disposal of any matter or materials (i) extracted or disturbed as the  
47 result of an underground coal mining operation ~~or operations~~ or (ii) used in the mining operation  
48 or for the refinement or preparation of the materials extracted from the coal mining operation,  
49 so that such matter or material does not threaten the health or safety of the miners or the general  
50 public.

51 B. The Chief shall not ~~promulgate~~ adopt any regulation establishing ~~requirements~~ any  
52 requirement for the operation of, or conditions at, an underground coal mine ~~which are~~ that is  
53 inconsistent with requirements established by the Act.

54 **Drafting note: The term "promulgate regulations" is changed to "adopt**  
55 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
56 **and includes the promulgation process. Technical changes are made, including changes**

57 pursuant to § 1-227, which states that throughout the Code any word used in the singular  
58 includes the plural and vice versa. A cross-reference to the creation of the Virginia Coal  
59 Mine Safety Board is added. In subdivision A 2, "but not be limited to" is removed  
60 following the term "include" on the basis of § 1-218, which states that throughout the  
61 Code "'Includes' means includes, but not limited to."

62 §-45.1-161.107 ~~45.2-xxx~~. Standards for regulations.

63 In ~~promulgating rules and adopting~~ regulations pursuant to §-45.1-161.106 ~~45.2-xxx~~,  
64 the Chief shall consider:

- 65 1. Standards utilized and generally recognized by the coal mining industry;
- 66 2. Standards established by recognized professional coal mining organizations and  
67 groups;
- 68 3. The federal mine safety law;
- 69 4. Research, demonstrations, experiments, and such other information that is available  
70 regarding the maintenance of the highest degree of safety protection, including the latest  
71 available scientific data in the field, the technical feasibility of the standards, and the experience  
72 gained under ~~this~~ the Act and other mine safety laws; and
- 73 5. Such other criteria as ~~shall be~~ are necessary for the protection of the safety and health  
74 of miners and other persons or property likely to be endangered by underground coal mines or  
75 related operations.

76 **Drafting note: The term "promulgating regulations" is changed to "adopting**  
77 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
78 **and includes the promulgation process. Language is updated for modern usage and**  
79 **clarity.**

80 Article ~~16~~ 2.

81 Additional Duties of Certified Persons and Other Miners.

82 **Drafting note: Existing Article 16 of Chapter 14.3, concerning additional duties of**  
83 **certified persons and other miners, is retained as proposed Article 2.**

84 §-45.1-161.249 ~~45.2-xxx~~. Duties of mine foreman.

85 A. The mine foreman shall see that the requirements of ~~this~~ the Act that pertain to his  
86 duties and to the health and safety of the miners are fully complied with at all times.

87 B. The mine foreman shall see that every miner employed to work in such mine, before  
88 beginning work therein, is aware of all hazardous conditions incident to his work in such mine.  
89 Any imminent danger that cannot be removed within a reasonable time shall be reported to the  
90 Chief by the quickest available means.

91 **Drafting note: Technical changes.**

92 ~~§ 45.1-161.250~~ 45.2-xxx. Employment and duties of top persons; plan for excavation of  
93 shaft or slope.

94 A. During the construction or modification of any shaft or slope mine, the person  
95 engaged in the actual construction or modification of such mine shall employ one or more  
96 ~~certified~~ top persons certified pursuant to § 45.2-xxx [§ 45.1-161.41]. It shall be the duty of  
97 such top person to examine for proper and safe practices and materials used during the  
98 construction or modification of a shaft or slope mine. Such duties shall at all times be performed  
99 in the immediate vicinity of the shaft or slope under construction.

100 B. Prior to commencing the excavation of any shaft or slope, the operator shall submit  
101 to the Department a copy of the plan that includes the following: (i) the name and location of  
102 the mine and ~~slope or~~ shaft or slope; (ii) a description of the work and methods to be used in  
103 the construction of the ~~slope or~~ shaft or slope; (iii) a description of the methods to be used to  
104 ensure wall and roof stability; (iv) a description of the system of ventilation to be used, including  
105 procedures for evacuation of the ~~slope or~~ shaft or slope should a fan stoppage occur; (v) details  
106 of hoisting equipment to be used; and (vi) such other information as ~~may be required by~~ the  
107 Chief requires. The excavation of a such shaft or slope shall not begin until the plan is approved  
108 by the Chief.

109 **Drafting note: Technical changes are made and language is updated for modern**  
110 **usage and clarity. A cross-reference regarding the certification of top persons is added in**  
111 **subsection A.**

112 ~~§ 45.1-161.251~~ 45.2-xxx. Employment of inexperienced underground miners.

113 A. ~~Inexperienced~~ An inexperienced underground ~~miners~~ miner shall be required to work  
114 with an experienced underground miner for a total of at least six months following the start of  
115 underground employment. However, an experienced surface ~~miners~~ miner shall only be  
116 required to work with an experienced underground miner for a total of at least ~~sixty~~ 60 days  
117 following the start of underground employment.

118 B. No inexperienced underground miner shall be assigned, ~~or~~ allowed, or ~~be~~ required to  
119 perform work alone in any area where there is ~~the~~ a potential ~~to endanger~~ danger to his safety  
120 unless he can communicate with others, ~~can~~ or be heard, or ~~can~~ be seen.

121 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
122 **throughout the Code any word used in the singular includes the plural and vice versa.**  
123 **Language is updated for modern usage and clarity.**

124 § ~~45.1-161.252~~ 45.2-xxx. Employment of authorized persons.

125 No miner shall be placed in charge of a cutting, loading, drilling, continuous miner, or  
126 timbering machine in any mine ~~who~~ if such miner is not an authorized person capable of  
127 determining the safety of the roof and ribs of ~~the~~ a working ~~places~~ place. Such miner shall also  
128 be capable of detecting the presence of explosive gas and shall ~~be compelled to~~ undergo  
129 examination by a mine inspector or other ~~instructors who are~~ instructor certified by the Board  
130 of Coal Mining Examiners and authorized by the Chief to determine ~~his~~ such miner's fitness to  
131 detect explosive gas before being permitted to have charge of ~~machines~~ a machine in such ~~mines~~  
132 mine.

133 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
134 **throughout the Code any word used in the singular includes the plural and vice versa.**  
135 **Language is updated for modern usage and clarity.**

136 Article 3.

137 Proximity of Mining to Gas ~~and~~ or Oil Wells, ~~and~~ or Abandoned Areas.

138 **Drafting note: Existing Article 3, concerning proximity of mining to gas or oil wells**  
139 **or abandoned areas, is retained as proposed Article 3. Technical changes are made to the**  
140 **name.**



141 § ~~45.1-161.121~~ 45.2-xxx. Mining in proximity to gas ~~and~~ or oil wells.

142 A. Except as provided in subsection D, an operator who plans to remove coal, drive any  
143 passage or entry, or extend any workings in any mine; within 500 feet of any gas or oil well  
144 already drilled into the projected mine workings or in the process of being drilled into the  
145 projected mine workings shall file with the Chief a notice that such mining is taking place or  
146 will take place. The notice shall include a copy of parts of the maps and plans required under §  
147 ~~45.1-161.64~~ which 45.2-xxx that show the mine workings ~~and~~ or projected mine workings  
148 ~~which that~~ are within 500 feet of the well. The operator shall simultaneously mail copies of  
149 such notice, maps, and plans by certified mail, return receipt requested, to the well operator and  
150 the Gas and Oil Inspector appointed pursuant to § 45.2-xxx [§ 45.1-361.4]. Each notice shall  
151 contain a certification made by the operator that he has complied with the provisions of this  
152 subsection.

153 B. Subsequent to the filing of the notice required by subsection A, the operator may  
154 proceed with mining operations in accordance with the maps and plans; however, without the  
155 prior approval of the Chief, he shall not remove any coal, drive any entry, or extend any  
156 workings in any mine ~~closer than~~ within 200 feet ~~to~~ of any gas or oil well already drilled or in  
157 the process of being drilled into the projected mine workings ~~or in the process of being drilled~~  
158 ~~into the projected mine workings~~.

159 C. The Chief shall ~~promulgate~~ adopt regulations ~~which that~~ prescribe the procedure to  
160 be followed by mine operators in petitioning the Chief for approval to conduct such activities  
161 within 200 feet of a gas or oil well or a vertical ventilation hole drilled or in the process of being  
162 drilled into the projected mine workings. Each operator who files such a petition shall mail  
163 copies of the petition, maps, and plans by certified mail, return receipt requested, to the well  
164 operator and the Gas and Oil Inspector no later than the day of filing. The Gas and Oil Inspector  
165 and the operator of the gas or oil well or vertical ventilation hole shall have standing to object  
166 to any petition filed under this section. Such ~~objections~~ objection shall be filed within ~~ten~~ 10  
167 days following the date such petition is filed.

168 D. Procedures for safely mining in proximity to or through a coalbed methane ~~wells~~  
169 well or a vertical ventilation ~~holes~~ hole developed for methane drainage in a mine shall be  
170 addressed in the bleeder system plan for that mine required by § ~~45.1-161.220~~ 45.2-xxx.

171 **Drafting note: The term "promulgate regulations" is changed in subsection C to**  
172 **"adopt regulations" in keeping with recent title revisions because "adopt" is more widely**  
173 **used and includes the promulgation process. A cross-reference to the section addressing**  
174 **the appointment of the Gas and Oil Inspector is added in subsection A, and technical**  
175 **changes are made.**

176 § ~~45.1-161.122~~ 45.2-xxx. Mining in proximity to an abandoned ~~areas~~ area.

177 A. The mine foreman shall ensure that boreholes are drilled in each advancing working  
178 place that is (i) within 50 feet of an abandoned ~~areas~~ area in the mine as shown by ~~surveys~~ a  
179 survey made and certified by a registered engineer or surveyor, (ii) within 200 feet of an  
180 abandoned ~~areas~~ area in the mine ~~which have~~ that has not been certified as surveyed, or; (iii)  
181 within 200 feet of any mine workings of an adjacent mine located in the same coal bed unless  
182 the adjacent area of the mine has been pre-shift examined pursuant to § 45.2-xxx [~~§45.1-~~  
183 ~~161.208~~]. ~~The boreholes~~ Each borehole shall be at least 20 feet in depth ~~and,~~ shall always be  
184 maintained not less than 10 feet in advance of the face, and shall be not more than eight feet  
185 ~~apart~~ from an adjacent borehole unless approved by the Chief. One borehole shall also be drilled  
186 for each cut on ~~sides~~ any side of the active workings ~~that are~~ is being driven toward; and in  
187 proximity to; an abandoned mine or part of a mine ~~which that~~ that may contain ~~flammable~~ explosive  
188 or hazardous gas or ~~which that~~ that is filled with water.

189 B. Sufficient holes shall be drilled through to accurately determine whether hazardous  
190 quantities of methane, carbon dioxide ~~and,~~ or other gases or water are present in the abandoned  
191 area. Materials shall be available to plug such holes to prevent an inundation of hazardous  
192 quantities of gases or water if detected.

193 C. Mining shall not advance into any abandoned area penetrated by ~~boreholes~~ a borehole  
194 drilled in accordance with subsection A until a plan has been submitted and approved by the  
195 Chief. The plan ~~will~~ shall include at a minimum: (i) procedures for testing the atmosphere at

196 the back of ~~boreholes~~ any borehole drilled into the abandoned area; (ii) the method of  
197 ventilation, the ventilation controls, and the air quantities and velocities in the affected working  
198 section and working place; (iii) procedures for ~~mining through~~ penetrating an abandoned area  
199 when hazardous quantities of methane, carbon dioxide, or other hazardous gases cannot be  
200 removed; (iv) dewatering procedures to be used if a penetrated area contains hazardous water  
201 accumulation; and (v) ~~the~~ procedures and precautions to be followed during ~~mining through a~~  
202 penetration operation. A copy of the plan shall be made available near the site of the penetration  
203 operation and the operator shall review the plan with all miners involved in the operation.  
204 Failure to comply with the approved plan shall constitute a violation of this section.

205 D. Any operator, ~~his agent of such operator~~, mine foreman, or miner engaged in drilling  
206 or mining into an inaccessible abandoned ~~areas~~ area shall have upon his person a self-contained  
207 self-rescuer.

208 E. Whenever a mine or section of a mine advances under any body of water that is  
209 sufficiently large or in close proximity as to constitute a hazard to miners, the operator shall  
210 submit to the Chief a plan meeting the requirements of 30 C.F.R. § 75.1716. The operator shall  
211 obtain approval for the submitted plan from the Chief prior to advancing the mine or any section  
212 of the mine under the body of water.

213 F. Prior to penetrating any portion of an active mine with a borehole, ventilation hole,  
214 or other hole drilled from the surface or from an overlying or underlying ~~mines~~ mine, or prior  
215 to drilling from into any portion of the same active mine, the operator shall submit a plan to the  
216 Chief addressing: (i) the purpose of the hole, (ii) information about any abandoned ~~mines~~ mine  
217 that the hole may penetrate, (iii) procedures for ~~withdrawal~~ withdrawing or limiting the number  
218 of miners from the mine or affected area during penetration, (iv) casing details and procedures  
219 ~~to prevent~~ for preventing water inflow and air transfer from the hole into the active mine, (v)  
220 procedures for grouting or sealing the hole when it is no longer used, and (vi) such other  
221 information as the Chief may require. The drilling of such hole shall not begin until the plan is  
222 approved by the Chief. The provisions of this section shall not apply to a gas wells well, coalbed  
223 methane ~~wells~~ well, or vertical ventilation ~~holes~~ hole.

224           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
225 **throughout the Code any word used in the singular includes the plural and vice versa.**  
226 **Language is updated for modern usage and clarity. The phrase "flammable gas" in**  
227 **subsection A is replaced with "explosive or hazardous gas" for consistency with the**  
228 **reference in subsection B to "hazardous quantities of" certain gases.**

229                                       Article-~~2~~ 4.  
230                                       Roof, ~~Rib~~ Face, and ~~Face~~ Rib Control.

231           **Drafting note: Existing Article 2, concerning roof, face, and rib control, is retained**  
232 **as proposed Article 4. Technical changes are made to the name.**

233           § ~~45.1-161.108~~ 45.2-xxx. Roof, ~~ribs~~ face, and ~~faces~~ ribs to be secure.

234           A. All underground active workings and travel ways shall be secured and controlled to  
235 protect miners from ~~falls~~ a fall of roof, face, or ribs. Loose roof and any loose or overhanging  
236 ribs ~~and faces~~ or face shall be taken down or supported.

237           B. The mining method ~~of mining followed~~ that the mine operator follows shall not  
238 expose miners any miner to a hazardous ~~e-conditions~~ condition caused by the excessive ~~widths~~  
239 width of rooms and entries a room or entry, a faulty pillar-recovery ~~methods~~ method, or any  
240 other hazardous mining ~~methods~~ method or working ~~e-conditions~~ condition.

241           **Drafting note: Technical changes are made, including changes pursuant to § 1-227,**  
242 **which states that throughout the Code any word used in the singular includes the plural**  
243 **and vice versa. Language is updated for modern usage and clarity.**

244           § ~~45.1-161.109~~ 45.2-xxx. Roof control plans.

245           A. Each underground coal mine shall have a roof control plan approved by the Chief.  
246 Each plan shall include (i) a minimum standard for adequately controlling the roof, face, and  
247 ribs; (ii) a description of mining methods used; (iii) a listing and specification of roof and rib  
248 support materials; (iv) instruction for the installation of temporary and permanent roof supports;  
249 (v) a description of any pillar recovery methods; (vi) applicable drawings that demonstrate the  
250 width of openings each opening, each roof support installation ~~sequences~~ sequence, and each  
251 pillar recovery ~~sequences~~ sequence; and (vii) any additional requirements deemed necessary by

252 the Chief. The initial submission of any roof control plan shall include maps of mine  
253 projections, overlying and underlying mine workings, coal contours, and surface contours. If  
254 changes are to be made in the mining system that necessitate any change in the roof control  
255 plan, the plan shall be revised and approved by the Chief prior to implementing the new mining  
256 system.

257 B. The Chief shall, where he deems necessary, prescribe adequate minimum standards  
258 for systematic support of mine roof, suitable to the roof conditions and mining system of each  
259 mine. Such standards shall be incorporated into an approved roof control plan for the mine.  
260 ~~This section shall not apply to roof control systems installed prior to January 27, 1988, so long~~  
261 ~~as the support system continues to effectively control the roof, face and ribs.~~

262 C. Failure to comply with the approved roof control plan for the mine shall constitute a  
263 violation of this section.

264 D. The approved roof control plan shall be posted conspicuously at the mine and a copy  
265 shall be available at each working section of the mine.

266 E. The minimum standards and plan shall provide for temporary support at all active  
267 workings, without regard to natural condition.

268 F. If the minimum standards do not afford adequate protection, such additional supports  
269 ~~as shall be necessary~~ shall be installed as necessary. Such additional supports shall be described  
270 in the plan.

271 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
272 **throughout the Code any word used in the singular includes the plural and vice versa. In**  
273 **subsection B, an exception for roof control systems installed prior to January 27, 1988, is**  
274 **proposed for deletion because it is an obsolete provision. Language is updated for modern**  
275 **usage.**

276 § 45.1-161.110 45.2-xxx. Instruction of miners.

277 The operator, or his agent, shall instruct all miners in the removal and installation of  
278 temporary and permanent roof supports as may be required by the roof control plan.

279 **Drafting note: Technical changes.**

280 § ~~45.1-161.111~~ 45.2-xxx. Copies of plan.

281 The operator, or his agent, shall, upon request, furnish a copy of the roof control plan to  
282 any miner engaged in removing or installing a temporary or permanent roof supports, ~~upon~~  
283 ~~request~~, a copy of the roof control plan support.

284 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
285 **throughout the Code any word used in the singular includes the plural and vice versa.**  
286 **Language is reworded for clarity.**

287 § ~~45.1-161.112~~. Repealed.

288 **Drafting note: Repealed by Acts 1996, c. 774, effective April 6, 1996.**

289 § ~~45.1-161.114~~ 45.2-xxx. Automated temporary roof support systems.

290 The Chief shall ~~promulgate~~ adopt regulations requiring automated temporary roof  
291 support systems for the installation of roof bolts.

292 **Drafting note: The term "promulgate regulations" is changed to "adopt**  
293 **regulations" in keeping with recent title revisions because "adopt" is more widely used**  
294 **and includes the promulgation process.**

295 § ~~45.1-161.115~~ 45.2-xxx. Supplies of materials for supports.

296 A. The operator, or his agent, shall provide at or near ~~the~~ each working ~~places~~ place an  
297 ample supply of suitable materials of proper size with which to secure ~~all roofs~~ the roof, ~~ribs~~  
298 face, and ~~faces~~ ribs of such working ~~places~~ place in a safe manner. Suitable supply materials  
299 shall be provided for variations in seam height. If the operator, or his agent, fails to provide  
300 such suitable materials, the mine foreman shall cause ~~the~~ all miners to withdraw from the mine,  
301 or the portion thereof affected, until such ~~material~~ materials or supplies are received.

302 B. Safety posts, jacks, or temporary crossbars shall be set close to the face before other  
303 operations are begun and as needed thereafter, ~~if miners go~~ any miner goes in by the last  
304 permanent roof support.

305 C. Unless an automated temporary roof support system is used, safety posts or jacks  
306 shall be used to protect ~~the miners when~~ during removal of roof material ~~is being taken down,~~  
307 installation of crossbars ~~are being installed,~~ drilling of roof bolt holes ~~are being drilled,~~

308 ~~installation of roof bolts are being installed, or when performance of any other work is being~~  
309 ~~performed~~ that would reasonably require roof support to protect the miners involved.

310 D. The operator; or his agent; shall make immediately available for emergency use at  
311 each mine site at least two lifting devices with a combined total of at least 80 tons lifting  
312 capacity. Each individual lifting device shall have 20 tons or greater lifting capacity.

313 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
314 **throughout the Code any word used in the singular includes the plural and vice versa.**  
315 **Language is updated for clarity and terms are reordered for consistency.**

316 § ~~45.1-161.116~~ 45.2-xxx. Examination and testing of roof, face, and ribs.

317 A. The operator; or his agent; shall instruct ~~all miners~~ every miner on how to ~~make~~  
318 ~~visual examinations~~ visually examine and conduct sound and vibration testing of roof, face, and  
319 ribs.

320 B. ~~Miners~~ Any miner exposed to danger from ~~falls~~ a fall of roof, face, ~~and or~~ ribs shall  
321 visually examine and, if conditions permit, test the roof, face, and ribs by sounding the roof  
322 before starting work or before starting a machine and as ~~frequently needed~~ needed thereafter ~~as may be~~  
323 ~~necessary~~ to ensure safety. ~~When~~ If hazardous conditions are found, miners discovering ~~them~~  
324 such conditions shall either (i) correct ~~such~~ the conditions immediately by taking down the  
325 loose material, ~~by installing~~ proper timbering, or ~~installation of~~ installing proper roof support  
326 before work is continued or any other work is done; or ~~shall~~ (ii) cause all miners to vacate the  
327 place.

328 C. At least once each shift, or more often if necessary, the mine foreman or other  
329 certified person shall examine and test the roof, face, and ribs of ~~all~~ each active working ~~sections~~  
330 section where coal is being produced while one or more miners are working ~~therein~~ in such  
331 section. Any place in which a hazardous condition is found by the mine foreman shall be made  
332 safe in his presence or under his direction; or ~~the~~ all miners shall be withdrawn from such place.  
333 Such hazardous ~~conditions~~ condition and corrective actions taken shall be recorded in the on-  
334 shift record book at the mine.

335           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
336 **throughout the Code any word used in the singular includes the plural and vice versa.**  
337 **Language is updated for modern usage and clarity.**

338           § ~~45.1-161.117~~ 45.2-xxx. Mapping of roof falls.

339           ~~Unplanned~~ Any unplanned roof falls fall that ~~are~~ is required to be reported in accordance  
340 with § ~~45.1-161.78~~ 45.2-xxx shall be marked on a map maintained at the mine to indicate the  
341 specific location of the fall.

342           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
343 **throughout the Code any word used in the singular includes the plural and vice versa.**

344           § ~~45.1-161.118~~ 45.2-xxx. Unsafe conditions.

345           A. No person shall work or travel under unsupported roof except to install temporary  
346 supports in accordance with the approved roof control plan. ~~Areas~~ Any area in by the breaker  
347 line where second mining has been or is being conducted shall be considered unsupported.

348           B. If roof, face, or rib conditions are found to be unsafe, no person shall start any other  
349 work in the area where such conditions exist until the conditions have been corrected by taking  
350 down loose material or securely supporting the roof, face, or ribs pursuant to subsection B of §  
351 45.2-xxx [45.1-161.116].

352           C. A bar of proper length shall be used to pull down any loose material discovered.

353           **Drafting note: A technical change is made pursuant to § 1-227, which states that**  
354 **throughout the Code any word used in the singular includes the plural and vice versa.**  
355 **Language is updated for clarity and a cross-reference is added.**

356           § ~~45.1-161.119~~ 45.2-xxx. Removal of supports.

357           A. No person shall deliberately remove any support in an active ~~areas~~ area unless  
358 equivalent protection is provided.

359           B. Any person who accidentally knocks out or dislodges a support shall promptly  
360 replace the support.

361           **Drafting note: A technical change is made pursuant to § 1-227, which states that**  
362 **throughout the Code any word used in the singular includes the plural and vice versa.**



363 § 45.1-161.120. Repealed.

364 **Drafting note: Repealed by Acts 2005, c. 3, cl. 2, effective February 10, 2005.**

365 Article 5.

366 Explosives and Blasting.

367 **Drafting note: Existing Article 5, concerning explosives and blasting, is retained as**  
368 **proposed Article 5.**

369 § 45.1-161.126 ~~45.2-xxx~~. Surface storage of explosives and detonators.

370 A. ~~Separate~~ Two or more surface magazines shall be provided for the storage of  
371 explosives and the separate storage of detonators.

372 B. ~~Surface magazines~~ Every surface magazine for storing and distributing explosives in  
373 ~~amounts~~ an amount exceeding 150 pounds shall be:

374 1. Reasonably ~~bulletproof~~ bullet-resistant and constructed of incombustible material or  
375 covered with ~~fire-resistive~~ fire-resistant material. ~~The roofs~~ roof of magazines so a magazine  
376 that is located that in such a way as to make it is impossible to fire ~~bullets~~ a bullet directly  
377 through the roof from the ground need not be ~~bulletproof, but where~~ bullet-resistant. Where it  
378 is possible to fire ~~bullets~~ a bullet directly through ~~them, roofs~~ a roof from the ground, such roof  
379 shall be made bullet-resistant by material construction, ~~or by~~ the use of a ceiling that forms a  
380 tray containing not less than a four-inch thickness of sand, or by ~~other methods~~ another method;

381 2. Provided with doors that are constructed of ~~three-eighth inch~~ three-eighth-inch steel  
382 plate. Such doors shall be lined with a two-inch thickness of wood, or the equivalent;

383 3. Provided with dry floors made of wood or other nonsparking material and have no  
384 metal exposed inside the magazine;

385 4. Provided with suitable warning signs ~~so~~ located so that a bullet passing directly  
386 through the face of a sign will not strike the magazine;

387 5. Provided with properly screened ventilators;

388 6. Equipped with no openings except for entrance and ventilation openings;

389 7. Kept locked securely when unattended; and

390 8. Electrically bonded and grounded if constructed of metal.

391 ~~C. Surface magazines~~ A surface magazine for storing detonators need not be ~~bulletproof~~  
392 ~~bullet-resistant~~, but ~~they~~ it shall conform to comply with the other provisions of subsection B  
393 regarding the storage of explosives.

394 ~~D. Explosives in amounts weighing a total of no more than 150 pounds or less, or 5,000~~  
395 ~~detonators numbering 5,000 or less fewer,~~ shall be stored (i) in accordance with ~~preceding the~~  
396 ~~standards set forth in subsection A, B, or C or (ii) in a separate locked box-type magazines~~  
397 ~~magazine.~~ A box-type magazine may also be used as a distributing  
398 ~~magazines magazine~~ when ~~quantities do~~ the weight of the explosives or the number of  
399 ~~detonators does~~ not exceed ~~those mentioned.~~ the limits set forth in this  
400 subsection. Every box-type magazine shall be strongly constructed ~~strongly~~ of two-inch  
401 hardwood or the equivalent. ~~Metal magazines~~ Every metal magazine shall be lined with  
402 nonsparking material. No magazine shall be placed (a) in a building containing oil, grease,  
403 gasoline, wastepaper, or other highly flammable material; ~~nor shall a magazine be placed~~ or (b)  
404 within 20 feet of a stove, furnace, open fire, or flame.

405 ~~E. Magazines~~ No magazine shall be ~~located~~ not placed less than 300 feet from any mine  
406 opening. However, ~~in the event that~~ if a magazine cannot be practicably located at such a  
407 distance, ~~a magazine~~ it may be located less than 300 feet from ~~any~~ a mine opening; if it is  
408 sufficiently barricaded and is approved by the Chief. Unless approved by the Chief, ~~magazines~~  
409 no magazine shall ~~not~~ be located closer to an occupied ~~buildings~~ building, public ~~roads~~ road, or  
410 passenger ~~railways~~ railway than ~~allowed~~ the distance recommended in the "American Table of  
411 Distances for Storage of Explosive Materials-" published by the Institute of Makers of  
412 Explosives.

413 ~~F. The supply kept in a distribution~~ magazines magazine shall be limited to  
414 approximately a 48-hour supply, and ~~such~~ supplies of explosives and detonators may be  
415 distributed from the same magazine; if they are separated by ~~at least a four-inch~~  
416 fastened hardwood partition at least four inches thick or the equivalent barrier.

417 G. The area surrounding ~~magazines for not less than 25 feet in all directions~~ any  
418 magazine shall be kept free of rubbish, dry grass, or other materials of a combustible nature for  
419 at least 25 feet in every direction.

420 H. If ~~the~~ an explosives magazine is illuminated electrically, each lamp shall be vapor-  
421 proof ~~lamps shall be~~ and installed and wired so as to ~~present minimum~~ minimize any fire ~~and~~  
422 or contact hazards hazard.

423 I. Only nonmetallic tools shall be used for opening any wooden explosives ~~containers~~  
424 container. Extraneous materials shall not be stored with explosives or detonators in an  
425 explosives magazine.

426 J. Smoking or carrying smokers' articles or open flames is prohibited in or near any  
427 magazine.

428 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
429 **throughout the Code any word used in the singular includes the plural and vice versa.**  
430 **Language is updated for modern usage and "bulletproof" is replaced with "bullet-**  
431 **resistant" three times in recognition that bullet-resistant is the correct descriptive term.**  
432 **Proposed subsection J is added to provide applicable law and make provisions in this**  
433 **section parallel to proposed § 45.2-xxx [§ 45.1-161.284] in Chapter 9 [existing Chapter**  
434 **14.4].**

435 § 45.1-161.127 ~~45.2-xxx~~. Underground transportation of explosives and detonators.

436 A. ~~Explosives~~ Any explosives or detonators carried anywhere underground by any  
437 ~~person~~ miner shall be in individual containers. Such containers shall be constructed  
438 substantially of nonconductive material, maintained in good condition, and kept closed.

439 B. ~~Explosives~~ Any explosives or detonators transported underground ~~in ears a car that~~  
440 is moved by means of a locomotive or rope, or ~~in a shuttle ears car~~, shall be in a substantially  
441 covered ~~ears car~~ or in a special substantially covered ~~containers~~ container used specifically for  
442 transporting explosives or detonators ~~or explosives~~, and only under the following conditions:

443 1. The ~~bodies~~ body and ~~eovers~~ cover of each such ~~ears car~~ and ~~containers~~ each such  
444 container shall be constructed or lined with nonconductive material;

445 2. If explosives and detonators are hauled in the same ~~explosive~~ special explosives car  
446 or in the same special container, they shall be separated by ~~at least a four-inch~~ substantially  
447 fastened hardwood partition at least four inches thick or the equivalent barrier;

448 3. ~~Explosives~~ No explosives, detonators, or other blasting devices shall ~~not~~ be  
449 transported on the same trip with ~~miners~~ any miner;

450 4. ~~When~~ If explosives or detonators are transported in a special ~~cars~~ explosives car or  
451 ~~containers in cars~~ a container in a car, they shall be hauled in ~~special trips~~ a trip specifically for  
452 this purpose and not connected to any other trip; however, this provision shall not prohibit the  
453 use of such additional cars as needed to lower a rope trip, or to haul supplies, including timbers.  
454 ~~Materials~~ No materials so transported shall ~~not~~ project above the top of the car. In no case shall  
455 flammable materials such as oil or grease be hauled on the same trip with explosives; and

456 5. ~~Explosives~~ No explosives or detonators shall ~~not~~ be hauled into or out of a mine  
457 within five minutes preceding or following a ~~man-trip~~ mantrip or any other trip. If traveling  
458 against the air current, the ~~man-trip~~ mantrip shall precede the explosives trip; if traveling with  
459 the air current, the ~~man-trip~~ mantrip shall follow the explosives trip.

460 C. In a low coal ~~seams~~ seam where it is impractical to comply with the provisions of  
461 subsection B, explosives may be transported in the original and unopened case, or in suitable  
462 individual containers, to the underground distribution magazine.

463 D. Explosives and detonators shall be transported underground by belt only under the  
464 following conditions:

465 1. ~~They~~ Each shall be transported in the original and unopened case, in a special closed  
466 ~~eases~~ case constructed of nonconductive material, or in a suitable individual ~~containers~~  
467 container;

468 2. Clearance requirements shall be the same as those for transporting miners on belts;

469 3. Suitable loading and unloading stations with stop controls shall be provided; and

470 4. ~~Stop controls shall be provided at loading and unloading points, and an~~ An authorized  
471 person shall supervise the loading and unloading of explosives ~~and or~~ and detonators.

472 E. ~~Neither~~ No explosives ~~nor~~ or detonators shall be transported on a flight or shaking  
473 ~~conveyors, scrapers~~ conveyor, scraper, mechanical loading ~~machines~~, locomotives machine,  
474 locomotive, cutting ~~machines~~ machine, or drill ~~trucks~~, truck or on any self-propelled mobile  
475 equipment; however, this provision shall not prohibit the transportation of explosives or  
476 detonators in special closed containers in a shuttle-ears car or in equipment designed ~~especially~~  
477 specifically to transport such explosives or detonators.

478 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
479 **throughout the Code any word used in the singular includes the plural and vice versa.**  
480 **Language is updated for modern usage and clarity. Subdivisions D 3 and 4 are**  
481 **reorganized to group provisions relating to loading and unloading stations together.**

482 § 45.1-161.128 ~~45.2-xxx~~. Underground storage of explosives and detonators.

483 A. ~~When supplies~~ If a supply of explosives ~~and~~ or detonators for use in one or more  
484 sections ~~are~~ is stored underground, ~~they~~ it shall be kept in a section ~~boxes~~ box or ~~magazines~~  
485 magazine of substantial construction with no metal exposed on the inside. Such ~~boxes~~ box or  
486 ~~magazines~~ magazine shall be located at least ~~twenty-five~~ 25 feet from ~~roadways~~ and any  
487 roadway or power ~~wires~~, wire and in a reasonably dry, well rock-dusted location protected from  
488 falls of roof. In a pitching ~~beds~~ bed, where it is not possible to comply with the location  
489 requirement, such ~~boxes~~ box shall be placed in ~~niches~~ a niche cut into the solid coal or rock.

490 B. ~~When~~ If explosives ~~or~~ and detonators are both stored in the section, they shall be kept  
491 in separate boxes or magazines not less than ~~twelve~~ 12 feet apart if feasible; if kept in the same  
492 box or magazine, they shall be separated by ~~at least a four-inch~~ substantially fastened hardwood  
493 partition at least four inches thick or the equivalent. Not more than a ~~forty-eight-hour~~ 48-hour  
494 supply of explosives or detonators shall be stored underground in such ~~boxes~~ box or ~~magazines~~  
495 magazine.

496 C. ~~Explosives~~ If explosives and detonators, are kept near the face for the use of  
497 workmen, they shall be kept in separate individual closed containers, in niches in the ~~rib~~ ribs,  
498 not less than ~~twelve~~ 12 feet apart, and at least ~~fifty~~ 50 feet from the working place and out of  
499 the line of blast. ~~Such containers~~ Each such container shall be constructed of substantial

500 material and maintained electrically nonconductive. Where it is physically impracticable to  
501 comply with such distance requirements, the explosives and detonator containers shall be stored  
502 in the safest available ~~place~~ places not less than ~~fifteen~~ 15 feet from any pipe, rail, conveyor,  
503 haulage road, or power line, not less than ~~twelve~~ 12 feet apart, and at least ~~fifty~~ 50 feet from the  
504 working face and out of the line of blast.

505 D. Explosives and detonators shall be kept in their containers pursuant to subsection C  
506 until immediately before use at the working faces.

507 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
508 **throughout the Code any word used in the singular includes the plural and vice versa.**  
509 **Language is updated for modern usage and clarity.**

510 § ~~45.1-161.129~~ 45.2-xxx. Blasting practices; penalty.

511 A. All explosives shall be of the permissible type except where addressed in the plan  
512 for shaft and slope development required by subsection B of § 45.1-161.250 B ~~45.2-xxx~~.

513 B. All explosives shall be used as follows:

514 1. Explosives shall be fired only with electric detonators of proper strength;

515 2. Explosives shall be fired with permissible shot-firing units, unless firing is done from  
516 the surface when all persons are out of the mine, or in accordance with a plan approved by the  
517 Chief;

518 3. ~~Boreholes~~ Where the coal is cut, no borehole in coal shall ~~not~~ be drilled beyond the  
519 limits of the cut ~~where the coal is cut nor~~ or into the roof or floor;

520 4. ~~Boreholes~~ Every borehole shall be cleaned, and ~~shall be checked to see~~ ensure that  
521 ~~they are~~ it is placed properly and ~~are~~ is of the correct depth in relation to the cut, before being  
522 charged;

523 5. ~~All~~ Every blasting ~~charges~~ charge in coal shall have a burden of at least ~~eighteen~~ 18  
524 inches in ~~all directions~~ every direction if the height of the coal permits;

525 6. ~~Boreholes~~ Every borehole shall be stemmed with at least ~~twenty-four~~ 24 inches of  
526 incombustible material, or at least one-half of the length of the hole shall be stemmed if the  
527 hole is less than four feet in depth. The Chief may approve the use of other stemming devices;

528           7. ~~Examinations~~ An examination for gas shall be made immediately before firing each  
529 shot or group of ~~multiple~~ shots; and after blasting is completed;

530           8. ~~Shots~~ No shot shall ~~not~~ be fired in any place where a methane level of one percent or  
531 greater can be detected with a permissible methane detector as directed by the Chief;

532           9. Without approval, ~~charges exceeding~~ no charge of greater than one and one-half  
533 pounds, ~~but not exceeding three pounds~~, shall be used ~~only if~~ unless (i) ~~boreholes are each~~  
534 borehole is six feet or more in depth; (ii) the explosives are charged in a continuous train, with  
535 no cartridges deliberately deformed or crushed; (iii) all cartridges are in contact with each other,  
536 with the end cartridges touching the back of the hole and the stemming, respectively; and (iv)  
537 ~~permissible explosives~~ permissible pursuant to this article are used. No charge exceeding three  
538 pounds shall be used; however, the three-pound limit shall not apply to solid rock work;

539           10. Any solid shooting shall be done in compliance with conditions prescribed by the  
540 Chief;

541           11. ~~Shots~~ Any shot shall be fired by a certified underground shot firer;

542           12. ~~Boreholes~~ No borehole shall ~~not~~ be charged while any other work is being done at  
543 the face, and ~~the~~ any shot or shots shall be fired before any other work is done in the zone of  
544 danger from blasting except that which is necessary to safeguard the miners;

545           13. Only nonmetallic tamping bars, including a nonmetallic tamping bar with a  
546 nonsparking metallic scraper on one end, shall be used for charging and tamping boreholes;

547           14. The leg wires of every ~~electric detonators~~ detonator shall be kept shunted until ready  
548 to connect to the firing cable;

549           15. The roof and faces of each working ~~places~~ place shall be tested before and after  
550 firing each shot or group of ~~multiple~~ shots;

551           16. Ample warning shall be given before ~~shots are~~ any shot is fired, and care shall be  
552 taken to ascertain that all miners are in the clear;

553           17. ~~All miners~~ Every miner shall be removed to a distance of at least 100 feet from the  
554 working place and ~~the~~ any immediately adjoining working place ~~or places to a distance of at~~  
555 ~~least 100 feet and~~ shall be accounted for before shots are any shot is fired;

556 18. ~~Mixed~~ No mixed types or brands of explosives shall ~~not~~ be charged or fired in any  
557 borehole;

558 19. ~~Adobe (mudcap)~~ No adobe, mudcap, or other open, unconfined ~~shots~~ shot shall ~~not~~  
559 be fired in any mine except ~~those types~~ a type approved by the federal Mine Safety and Health  
560 Administration and the Chief;

561 20. ~~Power wires and cables~~ Any power wire or cable that could contact ~~blasting cables~~  
562 any blasting cable or ~~leg wires~~ wire shall be de-energized during charging and firing;

563 21. ~~Firing shots~~ a shot from a properly installed and protected blasting circuit may be  
564 permitted by the Chief;

565 22. No miner shall return, or shall be allowed to return, to the working place after the  
566 firing of any shot ~~or shots~~ until the smoke has reasonably cleared away;

567 23. ~~Before returning~~ any miner returns to work and ~~beginning~~ begins to load coal, slate,  
568 or refuse, ~~a~~ such miner shall make a careful examination of the condition of the roof and do  
569 what is necessary to make the working place safe; and

570 24. An examination for fire shall be made of the working area after any blasting.

571 C. ~~It shall be~~ is unlawful for an operator, his agent, or a mine foreman to cause or permit  
572 any solid shooting to be done without first ~~having obtained~~ obtaining a written permit from the  
573 Chief. ~~It shall be~~ is unlawful for any miner to shoot coal from the solid without first obtaining  
574 permission to do so from the operator, his agent, or a mine foreman. A violation of this  
575 subsection is a Class 1 misdemeanor.

576 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
577 **throughout the Code any word used in the singular includes the plural and vice versa.**  
578 **Language is updated for modern usage and clarity.**

579 § ~~45.1-161.130~~ 45.2-xxx. Blasting cables.

580 ~~Blasting cables~~ Each blasting cable shall be:

581 1. Well insulated and as long as ~~may be~~ necessary to ~~permit~~ allow the shot firer to ~~get~~  
582 in move to a safe place around a corner;

583 2. Short-circuited at the battery end until it is ready to attach to the blasting unit;



584 3. Staggered as to length, or ~~the~~ have its ends kept well separated when attached to the  
585 detonator leg wires; and

586 4. Kept clear of power wires and all other possible sources of active or stray electric  
587 currents.

588 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
589 **throughout the Code any word used in the singular includes the plural and vice versa.**  
590 **Language is updated for clarity.**

591 § ~~45.1-161.131~~ 45.2-xxx. Misfires.

592 A. Where ~~misfires occur~~ a misfire occurs with ~~an electric detonators~~ detonator, a waiting  
593 period of at least ~~fifteen~~ 15 minutes ~~shall elapse~~ is required before ~~a~~ any miner ~~shall be~~ is  
594 allowed to return to the shot area. After such failure, the blasting cable shall be disconnected  
595 from the source of power and the battery ends short-circuited before electric connections are  
596 examined.

597 B. Explosives shall be removed by (i) firing a separate charge at least two feet away  
598 from, and parallel to, the misfired charge ~~or by~~; (ii) washing the stemming and the charge from  
599 the borehole with water; ~~or by~~ (iii) inserting and firing a new primer after the stemming has  
600 been washed out.

601 C. ~~A very careful search of the working place; and, if necessary, of the coal~~ after it  
602 reaches the tipple shall be ~~conducted after the coal reaches the tipple~~ made after blasting a  
603 misfired hole to recover any undetonated explosive.

604 D. The handling of a misfired shot shall ~~be directly supervised by~~ occur under the direct  
605 supervision of the mine foreman or a certified person designated by him.

606 **Drafting note: Technical changes are made, including changes pursuant to § 1-227,**  
607 **which states that throughout the Code any word used in the singular includes the plural**  
608 **and vice versa. Language is updated for modern usage and clarity. Changes are made to**  
609 **conform the section to existing § 45.1-161.285.**

610 § ~~45.1-161.132~~ 45.2-xxx. Explosives and blasting practices in shaft and slope  
611 operations.

612 A. ~~Blasting areas~~ Every blasting area in a shaft or slope operations operation shall be  
613 covered with mats or materials when the excavations are too shallow to retain the blasted  
614 material.

615 B. If explosives are in the shaft or slope when an electrical storm approaches, ~~all miners~~  
616 every miner shall be removed from ~~such the~~ working places place until the storm has passed.

617 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
618 **throughout the Code any word used in the singular includes the plural and vice versa.**

619 Article 8 6.

620 Mine Openings and Escapeways.

621 **Drafting note: Existing Article 8, concerning mine openings and escapeways, is**  
622 **retained as proposed Article 6.**

623 § 45.1-161.162 45.2-xxx. Mine openings.

624 A. Except as provided in § 45.1-161.164 45.2-xxx, there shall be at least two travel  
625 ways, entries, or openings to the surface from each section of a mine worked. ~~All~~ Each longwall  
626 ~~panels~~ panel shall be developed with at least three entries; however, if new technology becomes  
627 available pursuant to which two-entry systems may be safely developed, such technology may  
628 be used, with the approval of the Chief.

629 B. One of the required travel ways may be the haulage road.

630 C. The first opening shall not be made through an adjoining mine. The second opening  
631 may be made through an adjoining mine.

632 D. One of the required travel ways shall be designated as the primary escapeway and  
633 shall be in an intake ~~air~~ airway.

634 E. ~~After July 1, 1999, new~~ Any surface structures structure where miners congregate or  
635 where the mine map or other official records are kept at the mine shall be offset ~~not less than~~  
636 ~~fifteen~~ at least 15 feet from the nearest side of any mine opening, or otherwise located to be out  
637 of the ~~direct line~~ zone of possible forces coming out of the mine should danger if an explosion  
638 ~~occur~~ occurs, unless otherwise approved by the Chief.

639           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
640 **throughout the Code any word used in the singular includes the plural and vice versa.**  
641 **Language is updated for modern usage and obsolete provisions are removed.**

642           § ~~45.1-161.163~~ 45.2-xxx. Separation of openings.

643           A. In a drift or slope-mine ~~mine~~, openings shall be separated by ~~not less than~~ at least  
644 50 feet of natural strata, unless specifically approved in the roof control plan. All connections  
645 between openings not used for the coursing of air, travel, or haulage shall be closed with  
646 stoppings of fireproof material.

647           B. In a shaft ~~mines~~ mine, openings shall be separated by ~~not less than~~ at least 200 feet  
648 of natural strata.

649           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
650 **throughout the Code any word used in the singular includes the plural and vice versa.**  
651 **Language is updated for modern usage.**

652           § ~~45.1-161.164~~ 45.2-xxx. Number of miners in openings.

653           Until the two travel ways are made as required by § ~~45.1-161.162~~ 45.2-xxx, ~~not no~~ no more  
654 than ~~twenty~~ 20 miners shall work underground in the mine at one time. No additional  
655 development shall be permitted until the connection is made to the second opening. In ~~mines~~  
656 ~~where~~ a mine in which final pillar removal operations necessitate closing the second opening,  
657 ~~not no~~ no more than ~~twenty~~ 20 miners shall be permitted to work in the mine.

658           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
659 **throughout the Code any word used in the singular includes the plural and vice versa.**  
660 **Other technical changes are made and language is updated for modern usage.**

661           § ~~45.1-161.165~~ 45.2-xxx. Maintenance of mine openings.

662           ~~Mine openings~~ Every mine opening that ~~are~~ is used for entering and leaving the mine  
663 and every other required ~~travelways~~ travel way shall be kept in good condition and shall at all  
664 times be maintained in a safe condition.

665           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
666 **throughout the Code any word used in the singular includes the plural and vice versa.**  
667 **Other technical changes are made.**

668           §-45.1-161.166 45.2-xxx. Signs, life lines, and equipment.

669           A. Direction signs shall be posted conspicuously at all points where ~~the~~ a travel way to  
670 the mine opening, escapeway, or escapement shaft is intercepted by ~~other~~ another travel ~~ways~~  
671 way. The signs shall indicate the direction of the place of exit, ~~manways, and escapeways~~ any  
672 manway or escapeway.

673           B. Continuous life lines shall be installed and maintained in accordance with the  
674 approved emergency response plan pursuant to subsection A of §-45.1-161.202 45.2-xxx.

675           C. ~~Escapeways~~ Every escapeway shall be equipped with all necessary stairways,  
676 ladders, cleated walkways, or other equipment approved by the Chief. All equipment shall be  
677 installed in such a manner that ~~persons~~ a person using it in ~~emergencies~~ an emergency may do  
678 so quickly and without undue hazard.

679           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
680 **throughout the Code any word used in the singular includes the plural and vice versa.**

681           §-45.1-161.167 45.2-xxx. Examination of escapeways.

682           The mine foreman shall examine ~~all escapeways~~ every escapeway for hazardous  
683 conditions at least ~~once per week~~ weekly. The mine foreman shall mark his initials and the date  
684 ~~at the places~~ each place examined, and if a hazardous ~~conditions are~~ condition is found ~~they, it~~  
685 shall be reported promptly. A record of these examinations and tests shall be kept at the mine.

686           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
687 **throughout the Code any word used in the singular includes the plural and vice versa.**  
688 **Language is updated for modern usage.**

689           §-45.1-161.168 45.2-xxx. Longwall escape routes and plan.

690           A. The operator of any mine ~~which~~ that uses longwalls as a method of mining shall  
691 maintain an accessible travel route off the tailgate end of the longwall working face. ~~He~~ The  
692 operator shall familiarize all miners working on the longwall section with the procedures to

693 follow for escape from the section; and, when the travel route is impassible, the operator shall  
694 ~~also inform these such miners at any time during which the travel route is impassable of that~~  
695 fact.

696 B. The operator shall develop a plan for use of longwalls if the travel route becomes  
697 impassable. The plan shall address (i) the notification of to miners of the fact that the travel way  
698 is blocked and of the method and timetable for reestablishment of the travel way, (ii) the re-  
699 instruction of miners regarding escapeways and escape procedures in the event of an  
700 emergency, (iii) the re-instruction of miners on the availability and use of self-contained self-  
701 ~~rescue devices~~ self-rescuers, (iv) the monitoring and evaluation of the air entering the longwall  
702 section, (v) the location and effectiveness of the two-way communication systems, and (vi) a  
703 means of transportation from the longwall section to the main line. The plan provisions shall  
704 remain in effect until a travel way is reestablished on the tailgate side of a longwall section.  
705 Such an operation shall include provisions for such protective devices as fire extinguishers and  
706 respirators for miners working on the longwall section.

707 **Drafting note: Technical changes are made and language is updated for modern**  
708 **usage.**

709 § 45.1-161.169 45.2-xxx. Fire protection.

710 A. ~~Shafts~~ Every shaft, and partitions every partition therein, shall be as nearly fireproof  
711 as is practicable.

712 B. Where there is danger of fire entering the mine, ~~openings~~ every opening shall have  
713 adequate protection against ~~a surface fires~~ fire or ~~a hazardous volumes~~ volume of smoke  
714 entering the mine.

715 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
716 **throughout the Code any word used in the singular includes the plural and vice versa.**  
717 **Language is updated for modern usage.**

718 § 45.1-161.170 45.2-xxx. Unused openings.

719 All ~~Every~~ unused and or abandoned surface openings opening shall be effectively closed  
720 or fenced against unauthorized entrance.



1 Article 7.

2 Hoisting.

3 **Drafting note: Existing Article 7, concerning hoisting, is retained as proposed**

4 **Article 7.**

5 § ~~45.1-161.153~~ 45.2-xxx. Hoisting equipment.

6 A. ~~All hoists~~ Every hoist used for handling ~~men~~ miners shall be equipped with  
7 overspeed, overwind, and automatic stop controls.

8 B. ~~All~~ Every suspended work ~~decks and platforms~~ deck or platform shall (i) ~~shall~~  
9 operate automatically, (ii) ~~shall~~ be equipped with guardrails capable of protecting ~~men~~ miners  
10 and materials from accidental overturning, and (iii) ~~shall~~ be equipped with safety belts and such  
11 other protective devices as the Chief shall require by regulation.

12 C. ~~Any~~ Every platform or work deck that is used for transporting miners or materials  
13 shall be equipped with leveling indicators, and such conveyance shall be maintained and  
14 operated in a reasonably level position at all times.

15 D. ~~Slope~~, Every shaft, slope, or surface incline ~~hoists~~ hoist shall be equipped with brakes  
16 capable of stopping and holding the fully loaded unbalanced cage or trip at any point in the  
17 shaft or slope or on the surface incline.

18 E. An accurate and reliable indicator showing the position of the cage or trip shall be  
19 placed so as to be in clear view of the hoisting engineer, unless the position of the ~~ear~~ cage or  
20 trip is clearly visible at all times to the hoisting engineer or other person operating the equipment  
21 ~~at all times~~.

22 F. Any conveyance that is used to haul miners or materials within a shaft or slope shall  
23 be (i) ~~shall be~~ designed to prevent materials from falling back into the shaft or slope and (ii)  
24 ~~shall be~~ equipped with a retaining edge of ~~not less than~~ at least six inches to prevent objects  
25 from falling into the shaft or slope.

26 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
27 **throughout the Code any word used in the singular includes the plural and vice versa.**

28 **Language is updated for modern usage and clarity, including the use of "miners" instead**  
29 **of "men" consistently throughout the section. The word "car" in subsection E, apparently**  
30 **an error, is corrected to "cage."**

31 § 45.1-161.154 ~~45.2-xxx~~. Hoisting ropes.

32 A. ~~Hoisting ropes~~ The hoisting rope on all cages any cage or trips trip shall be adequate  
33 in size to handle the load and have a proper factor of safety as described in clauses (i) and (ii).  
34 ~~Ropes~~ A rope (i) that is used to hoist or lower coal and other materials shall have a factor of  
35 safety of not less than at least five to one; ropes or (ii) that is used to hoist or lower miners shall  
36 have a factor of safety of not less than at least 10 to one.

37 B. ~~The~~ Each hoisting rope shall have at least three full turns remaining on the drum  
38 when extended to its maximum working length. The rope shall make at least one full turn on  
39 the drum shaft, or around the spoke of the drum, in the case of a free drum, and be fastened  
40 securely by means of clamps.

41 C. ~~The~~ Each hoisting rope shall be fastened to its load by (i) a spelter-filled socket or ~~by~~  
42 (ii) a thimble and an adequate number of clamps that are properly spaced and installed.

43 D. Any cage, ~~man-ear~~ mancar, or trip used for hoisting or lowering ~~men~~ miners with a  
44 single rope shall be provided with two bridle chains or wire ropes connected securely to the  
45 rope at least three feet above the socket or thimble and clamps and to the crosspiece of the cage  
46 or to the ~~man-ear~~ mancar or trip. Multiple hoisting ropes installed ~~according~~ pursuant to  
47 subsection C may be used in lieu of two bridle chains.

48 E. ~~When~~ If equipment or supplies are being hoisted or lowered in the slope, safety chains  
49 or wire ropes shall be provided and connected securely to the hoist rope. In addition, visible or  
50 audible warning devices shall be installed in the slope where they may be seen or heard by  
51 ~~persons~~ any miner approaching the slope track entry from any access.

52 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
53 **throughout the Code any word used in the singular includes the plural and vice versa.**  
54 **Language is updated for modern usage and clarity.**



55 § 45.1-161.155 ~~45.2-xxx~~. Hoisting cages.

56 A. ~~Cages~~ Any cage used for hoisting miners shall be of substantial construction and  
57 shall have (i) adequate steel bonnets, with enclosed sides; (ii) gates, safety chains, or bars across  
58 the ends of the cage when ~~men~~ miners are being hoisted or lowered; and (iii) sufficient  
59 handholds or chains for all ~~men~~ miners on the cage to maintain their balance. A locking device  
60 to prevent tilting of the cage shall be used on all self-dumping cages when transporting miners  
61 ~~are transported thereon~~.

62 B. The floor of ~~the~~ each cage shall be constructed so that it ~~will be~~ is (i) adequate to  
63 carry the load and ~~so that it will be~~ (ii) impossible for a miner's foot or body to enter any opening  
64 in the bottom of the cage.

65 C. ~~Cages~~ Each cage used for hoisting miners shall be equipped with safety catches that  
66 act quickly and effectively in case of an emergency. The provisions of this subsection shall not  
67 apply to ~~capsules~~ a capsule or ~~buckets~~ bucket that is used for emergency escape or ~~used during~~  
68 shaft or slope or shaft sinking.

69 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
70 **throughout the Code any word used in the singular includes the plural and vice versa.**  
71 **Language is updated for modern usage and clarity.**

72 § 45.1-161.156 ~~45.2-xxx~~. ~~Slope and shaft~~ Shaft and slope conditions.

73 A. ~~All shafts~~ Every shaft shall be equipped with safety gates at the top and at each  
74 landing. Safety gates shall be kept closed except when the cage is being loaded or unloaded.

75 ~~D.~~ B. At the bottom of each hoisting shaft and at each intermediate ~~landings~~ landing, a  
76 runaround shall be provided for safe passage from one side of the shaft to the other. This  
77 passageway shall be ~~not less than~~ at least five feet in height and three feet in width.

78 ~~E.~~ C. Ice shall not be permitted to accumulate excessively in any shaft where miners are  
79 hoisted or lowered.

80 ~~B.~~ D. Positive-acting stopblocks or derails shall be installed near the top and at  
81 intermediate landings of slopes and surface inclines and at the approaches to all shaft landings.

82           C-~~E~~. Positive-acting stopblocks or derails shall be installed on the haulage track in the  
83 slope near the top of the slope. The stopblocks or derails shall be in a position to hold or stop  
84 any load, ~~including heavy mining equipment~~, to be lowered into the mine, including heavy  
85 mining equipment, until such time as the equipment is to be lowered into the mine by the hoist.

86           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
87 **throughout the Code any word used in the singular includes the plural and vice versa.**  
88 **Language is updated for modern usage and clarity. The section is reorganized by moving**  
89 **existing subsections B and C, which deal with slopes or surface inclines, to the end of the**  
90 **section, after shafts.**

91           § ~~45.1-161.157~~ 45.2-xxx. Signaling; signal code.

92           A. Two independent means of signaling shall be provided between the top, bottom, and  
93 ~~all every intermediate landings landing~~ of shafts, slopes, ~~and each shaft, slope, or surface~~  
94 ~~inclines~~ incline and the hoisting station. At least one of these means of signaling shall be audible  
95 to the hoisting engineer or other person operating the equipment. Bell cords shall be installed  
96 ~~in shafts~~ each shaft in such a manner as to prevent unnecessary movement of such cords within  
97 the shaft.

98           B. A uniform signal code approved by the Chief shall be in use at each mine and ~~shall~~  
99 be at the cage station designated by the mine foreman.

100           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
101 **throughout the Code any word used in the singular includes the plural and vice versa.**  
102 **Language is updated for modern usage and clarity.**

103           § ~~45.1-161.158~~ 45.2-xxx. Inspections of hoisting equipment.

104           A. Before hoisting or lowering ~~miners~~ any miner in a shaft, the hoisting engineer shall  
105 operate ~~an empty cages cage~~ up and down each shaft for at least one round trip, both at the  
106 beginning of each shift and after the hoist has been idle for one hour or more.

107 B. Before hoisting or lowering ~~miners in~~ any miner by slope and surface incline hoisting,  
108 the hoisting engineer shall operate an empty cage for at least one round trip, both at the  
109 beginning of each shift and after the hoist has been idle for one hour or more.

110 C. The hoisting engineer, at the time the inspections required by ~~subsections~~ subsection  
111 A and or B are performed, shall (i) inspect all cable or rope fastenings ~~at all cages, buckets on~~  
112 every cage, bucket, or slope ears car; (ii) inspect hammer locks and pins, thimbles, and clamps;  
113 (iii) inspect safety chains ~~on buckets,~~ every cage, bucket, or slope ears car; (iv) inspect ~~the~~ each  
114 braking system for malfunctions; (v) clean all excess oil and extraneous materials from the hoist  
115 housing construction; (vi) inspect the overwind, overtravel, and lilly switch or control from  
116 stopping at the collar and within 100 feet of the work deck; and (vii) check communications  
117 between the top house, work deck, and work deck tugger house.

118 ~~Hoisting~~ The hoisting engineer shall inspect the hoisting rope on all cages every cage  
119 ~~or trips shall be inspected~~ trip at the beginning of each shift ~~by the hoisting engineer~~.

120 E. A test of safety catches ~~on cages~~ every cage shall be made by an authorized person  
121 designated by the operator at least once each month. A written record shall be kept of such tests,  
122 and such record shall be available for inspection by interested persons.

123 ~~Hoisting~~ An authorized person designated by the operator shall inspect daily the  
124 hoisting equipment, including the headgear, cages, ropes, connections, links and chains, shaft  
125 guides, shaft walls, and other facilities ~~shall be inspected daily by an authorized person~~  
126 ~~designated by the operator~~. Such person shall also inspect ~~all~~ every bull-wheels wheel and  
127 lighting ~~systems~~ system on the head frame. Such person shall report immediately to the  
128 operator, or his agent, any defects found, and any such defect shall be corrected promptly. The  
129 person making such examination shall make a daily permanent record of such inspection, which  
130 shall be available for inspection by interested persons. If a hoist is used only during a weekly  
131 examination of an escapeway, then the inspection required by this subsection shall only be  
132 required to be completed weekly before the examination occurs.

133 G. Subsections A, B, C, and D shall not apply to automatically operated elevators.

134           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
135 **throughout the Code any word used in the singular includes the plural and vice versa.**  
136 **Language is updated for modern usage and clarity.**

137           § ~~45.1-161.159~~ 45.2-xxx. Hoisting engineers.

138           A. ~~A~~ If miners are transported into or out of an underground area of a mine by a hoist  
139 or on a surface incline, a certified hoisting engineer shall be either on duty continuously, or  
140 available within a reasonable time, as determined by the Chief, to provide immediate  
141 transportation while any ~~person~~ miner is underground, ~~where miners are transported into or out~~  
142 ~~of underground areas of a mine by hoists or on surface inclines.~~

143           B. ~~When miners are~~ any miner is being hoisted or lowered in ~~shafts, slopes,~~ a shaft or  
144 on a slope or surface inclines incline, the loading and unloading of ~~miners~~ any miner and the  
145 movement of the cage, car, or trip shall be under the direction of an authorized person.

146           C. Subsections A and B shall not apply to automatically operated elevators that can be  
147 safely operated by any miner; however, a person qualified as an automatic elevator operator  
148 shall be available at any such elevators elevator within a reasonable time, as determined by the  
149 Chief.

150           D. ~~No~~ An operator, or ~~his agent,~~ of such operator of any mine worked by shaft, slope,  
151 or surface incline shall place a competent and sober hoisting engineer in charge of any engine  
152 or drum used for lowering or hoisting miners ~~any but competent and sober hoisting engineers.~~  
153 No hoisting engineer in charge of such machinery shall allow any person, ~~except such as may~~  
154 be a person who is designated for such purpose by the operator, or his agent, to interfere with  
155 any part of the machinery. No person shall interfere with or intimidate ~~the~~ a hoisting engineer  
156 or automatic elevator operator who is engaged in the discharge of his duties.

157           **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
158 **throughout the Code any word used in the singular includes the plural and vice versa.**  
159 **Language is updated for modern usage and clarity. Subsections A and D are reorganized**  
160 **for clarity.**

161 § ~~45.1-161.160~~ 45.2-xxx. Operations of hoisting equipment.

162 A. The speed of the cage, car, or trip in ~~shafts, slopes, a shaft or slope~~ or on a surface  
163 ~~inclines~~ incline shall not exceed 1,000 feet per minute when ~~miners are~~ a miner is being hoisted  
164 or lowered.

165 B. When moving the platform or work deck, ~~all miners~~ every miner traveling thereon  
166 shall have ~~a safety belts~~ a belt secured.

167 C. No ~~person~~ miner shall ride on a loaded cage.

168 D. The number of ~~persons~~ miners riding in any cage or car at one time shall not exceed  
169 the maximum prescribed by the manufacturer. The Chief may prescribe a lesser number when  
170 necessary to ensure the safety of miners being transported.

171 E. ~~Conveyances~~ Any conveyance being lowered into a shaft in which ~~miners are~~ a miner  
172 is working shall be stopped at least ~~twenty~~ 20 feet above the area where such ~~miners are~~ miner  
173 is working.

174 F. ~~Whenever miners are~~ If any miner is working at the bottom of a shaft, there shall be  
175 an adjustable ladder or chain ladder attached to the work deck to provide an additional means  
176 of escape. Such ladder shall be at least ~~twenty~~ 20 feet in length.

177 G. ~~All chokers and slings~~ Every choker or sling used to transport materials within a shaft  
178 or slope shall meet specifications established by the ~~United States of America~~ American  
179 National Standards Institute.

180 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
181 **throughout the Code any word used in the singular includes the plural and vice versa.**  
182 **Language is updated for modern usage and clarity. The name "United States of America**  
183 **Standards Institute" is changed to "American National Standards Institute" to reflect the**  
184 **1969 name change.**

185 § ~~45.1-161.161~~ 45.2-xxx. Maintenance of hoisting equipment.

186 ~~Hoists, ropes, cages, Every hoist, rope, cage, and other piece of hoisting equipment shall~~  
187 ~~be maintained in a safe operating condition, as directed by the Chief. Hoisting ropes~~ A hoisting  
188 rope shall be replaced as soon as there is evidence of possible failure.

189 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
190 **throughout the Code any word used in the singular includes the plural and vice versa. A**  
191 **reference to the authority of the Chief to determine safe operating conditions is added.**

192 Article-6 8.

193 Transportation.

194 **Drafting note: Existing Article 6, concerning transportation, is retained as**  
195 **proposed Article 8.**

196 ~~§ 45.1-161.133~~ 45.2-xxx. Haulage roads.

197 A. The roadbed, rails, joints, switches, frogs, and other elements of the track of ~~all~~ each  
198 ~~haulage roads~~ road shall be constructed, installed, and maintained in a manner that ensures ~~their~~  
199 the safe operation of the haulage road. In determining ~~their~~ its safety, consideration shall be  
200 given to the speed of equipment, and the type of haulage operations conducted on the haulage  
201 ~~roads~~ road.

202 B. Haulage tracks shall be kept free of accumulations of coal spillage and debris, and  
203 water shall not be allowed to accumulate over the top of the rail.

204 C. ~~Off-track~~ Every off-track haulage equipment ~~operators~~ operator shall observe any  
205 ~~haulage roads~~ road for hazardous conditions during the course of travel and shall promptly  
206 correct or report to the mine foreman any hazardous condition observed.

207 D. ~~Off-track~~ Each off-track haulage ~~roads~~ road shall be maintained reasonably free of  
208 bottom irregularities, excess spillage, debris, wet or muddy conditions that make controlling  
209 off-track haulage equipment difficult, and ~~accumulations~~ any accumulation of water over such  
210 ~~areas~~ an area of the haulage ~~roads~~ road and in such ~~depths that~~ a depth as to allow water ~~could~~  
211 to enter ~~any electrical panels~~ panel and create ~~a potentially hazardous conditions~~ condition.

212 E. ~~Uninsulated~~ No uninsulated trolley lines shall ~~not~~ be used or installed in any  
213 underground coal ~~mines~~ mine without approval of the Chief.

214 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
215 **throughout the Code any word used in the singular includes the plural and vice versa.**  
216 **Language is updated for modern usage and clarity.**

217 § ~~45.1-161.134~~ 45.2-xxx. Track switches and rails.

218 A. ~~All~~ Every track ~~switches~~ switch shall be provided with a properly installed ~~throws,~~  
219 throw and properly installed latches, and bridle bars.

220 B. ~~All~~ Every track ~~switches~~ switch, other than ~~those in rooms and~~ a switch in a room or  
221 entry development, shall be equipped with properly installed guardrails.

222 C. ~~All~~ Every switch ~~throws~~ throw and ~~stands~~ stand shall be installed on the side of the  
223 track where clearance is provided.

224 D. ~~Rails~~ Every rail shall be secured at all joints by plates or welds.

225 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
226 **throughout the Code any word used in the singular includes the plural and vice versa.**  
227 **Language is updated for modern usage and clarity.**

228 § ~~45.1-161.135~~ 45.2-xxx. Clearance on haulage roads.

229 A. ~~Track~~ Every track haulage ~~roads~~ road in ~~entries, rooms, and crosseuts~~ an entry, room,  
230 or crosscut shall have a continuous clearance on one side of at least ~~24 inches~~ two feet from the  
231 farthest projection of moving traffic. The clearance shall be kept free of any obstruction to a  
232 height permitted by the height of the coal seam. When it is not possible to maintain such  
233 clearance, signs indicating close clearance ~~signs~~ shall be posted inby and outby the affected  
234 area.

235 B. ~~Track~~ Every track haulage ~~roads~~ road in ~~entries, rooms, and crosseuts~~ an entry, room,  
236 or crosscut shall have a continuous clearance, on the side opposite the clearance required by  
237 subsection A, of at least six inches from the farthest projection of moving traffic. When it is not

238 possible to maintain such clearance, signs indicating close clearance ~~signs~~ shall be posted inby  
239 and outby the affected area.

240 C. ~~Haulage roads~~ Each track haulage road where trolley lines are used shall have the  
241 clearance required by subsection A on the side of the track opposite the trolley lines. This  
242 requirement shall not apply ~~where~~ if the trolley lines are ~~6 1/2~~ at least 6.5 feet ~~or more~~ above  
243 the rail.

244 D. The clearance space on ~~all~~ each track haulage ~~roads~~ road shall be kept free of loose  
245 rock, loose coal, loose supplies, and other loose materials. If the clearance space exceeds ~~24~~  
246 ~~inches, not more than 24 inches~~ two feet, at least two feet of the clearance space shall be  
247 ~~required to be~~ kept free of such materials.

248 E. ~~All~~ Every parallel ~~traeks~~ track shall be installed so as to provide a clearance of at  
249 least ~~24 inches~~ two feet between the outermost projections of passing traffic.

250 F. Ample clearance shall be provided (i) at each conveyor loading ~~heads~~ head, (ii) at  
251 each conveyor control ~~panels~~ panel, and (iii) along each conveyor ~~lines~~ line.

252 G. ~~Belt conveyors~~ Every belt conveyor shall be equipped with ~~a control switches~~ switch  
253 to automatically stop the driving motor in the event that the belt is stopped by slipping on the  
254 driving pulley, ~~by~~ as a result of breakage or other accident.

255 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
256 **throughout the Code any word used in the singular includes the plural and vice versa.**  
257 **Language is updated for modern usage and clarity.**

258 § ~~45.1-161.136~~ 45.2-xxx. Conveyor crossings.

259 Suitable facilities for crossing ~~conveyors~~ a conveyor belt shall be provided where it is  
260 necessary for miners to cross ~~conveyors~~ such conveyor belt regularly.

261 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
262 **throughout the Code any word used in the singular includes the plural and vice versa.**

263 § ~~45.1-161.137~~ 45.2-xxx. Shelter holes.



264 A. ~~Track~~ Every haulage road shall have shelter holes at intervals not to exceed the  
265 interval permitted by the roof control plan for crosscuts. Except at ~~points~~ a point where more  
266 than six feet of side clearance, measured from the rail, is maintained ~~and, or~~ at a room-switches  
267 switch, a shelter hole shall be provided at each manually operated ~~doors~~ door and at each  
268 ~~switch-throws~~ throw.

269 B. Except for shelter holes at an underground slope ~~landings~~ landing where ~~men~~ miners  
270 pass and cars are handled, each shelter hole shall have (i) ~~the~~ a depth of shelter holes shall not  
271 be less than at least five feet; (ii) ~~the~~ a width of shelter holes shall not be greater than at most  
272 four feet, unless a room neck or crosscut width exceeding four feet is used as a shelter hole; and  
273 and (iii) a height of shelter holes shall not be less than at least six feet or, if the height of the  
274 traveling space is less than six feet, ~~as high as~~ a height equivalent to that of the traveling space.

275 C. ~~Shelter holes~~ Every shelter hole at an underground slope ~~landings~~ landing where ~~men~~  
276 miners pass and cars are handled shall be at least (i) ~~ten~~ 10 feet in depth, (ii) four feet in width,  
277 and (iii) six feet in height.

278 D. ~~Shelter holes~~ Every shelter hole shall be kept free of refuse, loose roof, and other  
279 obstructions.

280 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
281 **throughout the Code any word used in the singular includes the plural and vice versa.**  
282 **Reference to the roof control plan is inserted to clarify the source of authority for the**  
283 **permitted crosscut interval and language is updated for modern usage and clarity,**  
284 **including by replacing "men" with "miners."**

285 § 45.1-161.138 ~~45.2-xxx~~. Refuge from moving traffic.

286 Upon the approach of moving traffic, ~~miners~~ any miner not engaged in haulage  
287 operations shall take refuge in a shelter hole or other ~~places~~ place of safety.

288 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
289 **throughout the Code any word used in the singular includes the plural and vice versa.**

290 § 45.1-161.139 ~~45.2-xxx~~. Inspection of underground equipment.

291 Once a per week, or more often if necessary, the mine foreman or a certified person  
292 shall inspect electrical and diesel transportation equipment to ~~assure~~ ensure its safe operating  
293 condition. Such equipment located on the surface shall be inspected ~~as~~ once per month, or more  
294 ~~often as~~ if necessary ~~but at least monthly~~. Such person shall correct any defect found during the  
295 inspection. A record of such examination shall be maintained.

296 **Drafting note: Language is updated for modern usage.**

297 § 45.1-161.140 45.2-xxx. Maintenance of equipment.

298 ~~Locomotives, Every locomotive, mine ears car, shuttle ears car, supply ears, conveyors,~~  
299 car, conveyor, piece of self-propelled mobile equipment, and all other piece of equipment shall  
300 be maintained in a safe operating condition.

301 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
302 **throughout the Code any word used in the singular includes the plural and vice versa.**

303 **Language is updated for modern usage and clarity.**

304 § 45.1-161.141 45.2-xxx. Self-propelled equipment.

305 A. ~~All~~ Every piece of self-propelled mobile transportation ~~and or~~ haulage equipment for  
306 use underground shall be equipped with safe seating facilities for the person operating the  
307 equipment unless it is equipped for remote control operation. Where seating facilities are  
308 provided on a piece of self-propelled mobile equipment, the person operating such equipment  
309 shall be seated before the equipment is put into motion.

310 B. ~~All~~ Every piece of track-mounted equipment shall be equipped with proper lifting  
311 devices; for the rerailling of such equipment.

312 C. An audible warning device and headlights shall be provided on each locomotive,  
313 shuttle car ~~and any, or~~ other piece of self-propelled mobile transportation ~~and or~~ haulage  
314 equipment.

315 D. A trip light capable of being seen for at least 300 feet underground shall be used on  
316 the rear of ~~trips~~ any trip that is pulled and on the front of any pushed ~~trips and trips~~ trip or trip

317 ~~that is lowered in slopes on a slope~~; however, ~~trip lights~~ a trip light need not be used ~~where if~~  
318 ~~locomotives are~~ a locomotive is used on each end of a trip.

319 E. Effective ~~means~~ measures, including ~~but not limited to use of a trailing locomotives~~  
320 locomotive, slides, skids, or drags, shall be ~~used~~ taken during track haulage to ensure that safe  
321 control is maintained when ~~grades create~~ a grade creates a potential hazard.

322 F. Where block signals are used, procedures ~~shall be established in writing~~ to safely  
323 control traffic movement within the system ~~and shall be established in writing and~~ posted and  
324 reviewed with all ~~mine personnel~~ miners.

325 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
326 **throughout the Code any word used in the singular includes the plural and vice versa.**  
327 **Language is updated for clarity and modern usage.**

328 § 45.1-161.142 ~~45.2-xxx~~. Pushing cars.

329 Pushing ~~cars~~ any car on a main haulage ~~roads shall be~~ road is prohibited except (i) where  
330 it is necessary to push ~~cars~~ a car from ~~sidetraeks~~ a sidetrack that is located near the working  
331 section to the producing ~~entries and rooms~~ entry or room, (ii) where it is necessary to clear  
332 ~~switches and sidetraeks~~ a switch or sidetrack, and (iii) on the approach to ~~eages, slopes and a~~  
333 cage, slope, or surface ~~inclines~~ incline. However, where a rail transportation ~~systems are~~ system  
334 is utilized and it becomes necessary to routinely push cars, the operator shall develop  
335 procedures for coordination and control of rail traffic, such as ~~provisions~~ the provision of  
336 effective trip lights or other warning devices, and other safety precautions specific to the mine.  
337 These procedures shall be subject to approval of the Chief.

338 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
339 **throughout the Code any word used in the singular includes the plural and vice versa.**

340 § 45.1-161.143 ~~45.2-xxx~~. Transportation of material.

341 A. Equipment ~~or~~ material, or supplies being transported shall be loaded in a manner ~~to~~  
342 ~~protect~~ that protects the operator and other personnel from sliding equipment ~~or~~ material, or  
343 supplies.

344 B. ~~Materials and~~ Equipment, material, or supplies that are not necessary for the  
345 operation of a piece of self-propelled mobile equipment shall not be transported on such  
346 equipment, except for when the mobile equipment is designed to carry such materials or  
347 supplies and a no hazard is ~~not~~ created. Only small hand tools and materials or supplies which  
348 that do not create hazards may be transported in the same compartment of ~~personnel carriers a~~  
349 mantrip where ~~miners are~~ any miner is seated.

350 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
351 **throughout the Code any word used in the singular includes the plural and vice versa.**  
352 **Language is updated for modern usage and clarity, including by replacing "personnel**  
353 **carrier" with "mantrip," the term used throughout the title for a specialized personnel**  
354 **carrier in a mine.**

355 § 45.1-161.144 ~~45.2-xxx~~. Securing cars.

356 A. ~~Standing cars~~ A standing car on any track, unless it is held effectively by brakes,  
357 shall be properly blocked ~~or spragged to prevent movement~~.

358 B. Positive-acting stopblocks or derails shall be used ~~where~~ when necessary to protect  
359 miners from ~~danger~~ the hazard of runaway rail equipment. Derails shall be located where ~~grades~~  
360 a grade at the entrance ~~and or any other locations~~ location in the mine ~~create~~ creates a potential  
361 collision ~~hazards~~ hazard.

362 C. Safety chains, steel ropes, or other effective devices capable of holding the load shall  
363 be used to prevent a runaway ~~man-trip~~ mantrip or other supply ~~cars~~ car.

364 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
365 **throughout the Code any word used in the singular includes the plural and vice versa.**  
366 **Language is updated for modern usage and clarity and the unique term "spragged" is**  
367 **removed.**

368 § 45.1-161.145 ~~45.2-xxx~~. Riding on cars.

369 A. No person other than the motorman and the trip rider shall ride on a locomotive,  
370 unless authorized by the mine foreman.

371 B. No person shall ride on ~~a loaded-ears car~~ a loaded-ears car or between cars of any trip.

372 C. No person shall get on or off ~~a moving-loeemotives locomotive~~ a locomotive or ~~ears car~~ that is  
373 being moved by-loeemotives a locomotive.

374 D. No person shall be allowed to ride on top of a piece of self-propelled mobile  
375 equipment.

376 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
377 **throughout the Code any word used in the singular includes the plural and vice versa.**  
378 **Language is updated for modern usage and clarity.**

379 § ~~45.1-161.146~~ 45.2-xxx. Back-poling.

380 Back-poling shall be prohibited except (i) at ~~places~~ a place where the trolley pole cannot  
381 be reversed or (ii) when going up an extremely steep ~~grades~~ grade. In ~~all~~ such circumstances,  
382 back-poling shall occur only at very slow speed.

383 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
384 **throughout the Code any word used in the singular includes the plural and vice versa.**

385 § ~~45.1-161.147~~ 45.2-xxx. Operation of equipment.

386 A. ~~Operators~~ Every operator of self-propelled mobile haulage equipment shall face in  
387 the direction of travel except when the equipment is being loaded and is under the boom of the  
388 loading equipment.

389 B. ~~Track~~ Every track haulage ~~cars which require~~ car that requires coupling and  
390 uncoupling shall be equipped with automatic couplers or devices designed to allow coupling  
391 and uncoupling without exposing miners between such equipment. Specialty cars designed with  
392 safe clearance when connecting to other cars are excluded from the provisions of this  
393 subsection.

394 C. ~~Persons~~ Every person operating self-propelled haulage equipment shall sound a  
395 warning before starting such equipment and on approaching ~~curves, sidetracks, doors, curtains~~  
396 any curve, sidetrack, door, curtain, manway-crossings crossing, or ~~any~~ other place where  
397 ~~persons are~~ a miner is or ~~are~~ is likely to be.

398 D. All rail equipment shall be operated at speeds ~~which~~ that are safe for the condition  
399 of the any rail installation, ~~grades and clearances~~ grade, or clearance encountered. When rail  
400 equipment is being operated at a normal safe ~~speeds~~ speed, a distance of 300 feet shall be  
401 maintained from the rear of other rail equipment in operation, except for a trailing ~~locomotives~~  
402 locomotive that ~~are~~ is an integral part of the trip.

403 E. All persons shall stand in the clear during any switching ~~operations~~ operation.

404 F. No two pieces of self-propelled mobile mining equipment traveling in opposite  
405 directions inside a coal mine shall be allowed to pass each other while both are in motion on  
406 the same haulage road unless ~~a minimum of 24 inches~~ a distance of at least two feet is  
407 maintained between the vehicles.

408 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
409 **throughout the Code any word used in the singular includes the plural and vice versa.**  
410 **Language is updated for modern usage and clarity.**

411 § 45.1-161.148 ~~45.2-xxx~~. Dispatchers.

412 Where a dispatcher is employed to control trips at a mine, traffic under his jurisdiction  
413 shall be moved only at his direction. The dispatcher shall be stationed on the surface at the  
414 mine.

415 **Drafting note: Language is updated for clarity.**

416 § 45.1-161.149 ~~45.2-xxx~~. Availability of ~~man-trips~~ mantrips.

417 The operator or his agent shall maintain a ~~man-trip~~ mantrip or other equipment suitable  
418 for providing reasonable access within a reasonable time to ~~areas~~ any area of the mine where  
419 miners are working and where transportation is ordinarily provided. The suitability of the  
420 equipment, and the reasonableness of the time required to reach such ~~areas~~ an area of the mine,  
421 shall be determined by the Chief.

422 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
423 **throughout the Code any word used in the singular includes the plural and vice versa.**

424 Language is updated for modern usage, including by replacing "man-trip" with  
425 "mantrip," consistent with language in proposed Chapter 9.

426 § 45.1-161.150 45.2-xxx. ~~Man-trips~~ Mantrips.

427 A. ~~Man-trips~~ Each mantrip that is operated by means of ~~locomotives~~ a locomotive shall  
428 be pulled and operated at a ~~safe-speeds~~ speed that is consistent with the condition of ~~roads~~ the  
429 road and the type of equipment used, and shall be so controlled that ~~they~~ it can be stopped  
430 within the limits of the operator's visibility.

431 B. ~~Each man-trip~~ mantrip shall be under the charge of an authorized person and ~~shall be~~  
432 operated independently of any loaded trip.

433 C. ~~Man-trips~~ Each mantrip shall be maintained in safe operating condition, ~~and~~  
434 Mantrips shall be provided in sufficient number to prevent any mantrip from becoming  
435 overloaded.

436 D. No person shall ride under a trolley wire other than in a suitably covered ~~man-ears~~  
437 mantrip. ~~Covered man-ears~~ A covered mantrip shall not be required under trolley wires that are  
438 guarded or positioned in accordance with subsection F of § 45.1-161.187 45.2-xxx.

439 E. Other than small hand tools carried on the person, no supplies or, tools, or materials  
440 shall ~~not~~ be transported in the same car or cage with miners on any ~~man-trip~~ mantrip, except in  
441 a special- ~~compartments~~ compartment in such ~~ears~~ car designed for this purpose.

442 F. ~~Miners~~ No miner shall ~~not~~ board or leave a moving ~~man-trip ears~~. ~~Miners~~ mantrip  
443 car. Each miner shall remain seated while in a moving-ears, car and shall proceed in an orderly  
444 manner to and from ~~man-trips~~ a mantrip.

445 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
446 **throughout the Code any word used in the singular includes the plural and vice versa.**  
447 **Language is updated for modern usage and clarity, including by replacing "man-trip"**  
448 **with "mantrip," consistent with language in proposed Chapter 9.**

449 § 45.1-161.151 45.2-xxx. ~~Man-trip~~ Mantrip loading and unloading areas.

450 A. ~~Areas~~ Any area used regularly for loading or unloading ~~man-trips or man-cages~~  
451 mantrips shall be kept clear, and free of obstructions, and ~~with~~ have ample clearance for moving  
452 equipment. ~~Miners~~ Each miner shall remain in such area until the ~~man-trip or man-cage~~ mantrip  
453 is ready to load.

454 B. Trolley and power wires shall be guarded effectively at ~~areas~~ any area where persons  
455 regularly load or unload from ~~man-trips or man-cages~~ mantrips and where there is a possibility  
456 ~~of any that~~ a person coming in could come into contact with energized electric wiring while  
457 boarding or ~~leaving~~ disembarking the ~~man-trip~~ mantrip.

458 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
459 **throughout the Code any word used in the singular includes the plural and vice versa.**  
460 **Language is updated for modern usage and clarity, including by replacing "man-trip"**  
461 **and "man-cage" with "mantrip," the term used throughout the title for a specialized**  
462 **personnel carrier in a mine.**

463 § 45.1-161.152 ~~45.2-xxx~~. Transporting miners by ~~belts~~ conveyor belt.

464 A. ~~When belts are~~ If a conveyor belt is used for transporting miners, such ~~belts~~ belt shall  
465 be free of loose materials, and maintain a minimum clearance of at least ~~eighteen~~ 18 inches  
466 ~~shall be maintained~~ between the belt and the overhead roof or crossbars, projecting equipment,  
467 cap pieces, overhead cables, wiring, and other objects. ~~Belts~~ Each conveyor belt that is used for  
468 transporting miners shall be equipped with emergency stop cords for ~~their~~ its entire length.

469 B. The conveyor belt speed while miners are being transported shall not exceed (i) 250  
470 feet per minute ~~while miners are being transported where~~ if the overhead clearance between the  
471 belt and overhead roof or projections maintained pursuant to subsection A is between eighteen  
472 more than 18 inches and twenty-four but less than 24 inches and (ii) 300 feet per minute ~~where~~  
473 if the overhead clearance is twenty-four 24 inches or more. ~~The use of conveyor belts to~~  
474 ~~transport miners shall be prohibited if the clearance between the belt and overhead is less than~~  
475 ~~eighteen inches.~~ Such conveyor belt shall be stopped while miners are boarding or ~~leaving~~  
476 disembarking.



477 C. The space between miners riding on a conveyor belt line shall be ~~not less than~~ at least  
478 five feet.

479 D. Adequate clearance and proper illumination shall be provided where miners board or  
480 ~~leave~~ disembark a conveyor ~~belts~~ belt.

481 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
482 **throughout the Code any word used in the singular includes the plural and vice versa.**  
483 **Language is updated for modern usage and clarity, including the substitution of**  
484 **"conveyor belt" for "belt" and "disembark" for "leave."**

485 Article ~~15~~ 9.

486 Surface Areas.

487 **Drafting note: Existing Article 15, concerning surface areas, is retained as**  
488 **proposed Article 9.**

489 § ~~45.1-161.236~~ 45.2-xxx. Housekeeping; noxious fumes.

490 A. Good housekeeping shall be practiced in and around ~~buildings, shafts, slopes, yards~~  
491 ~~and every building, shaft, slope, yard, or other areas~~ area of the mine. Such ~~practices include~~  
492 practice includes cleanliness, orderly storage of materials, and the removal of possible sources  
493 of injury, such as stumbling hazards, protruding nails, broken glass, and possible falling and  
494 rolling materials.

495 B. Painting or ~~operations creating~~ conducting any operation that creates noxious fumes  
496 shall be performed only in a ~~well-ventilated~~ well-ventilated atmosphere.

497 C. ~~All~~ Every surface mine ~~structures, enclosures, and~~ structure, enclosure, or other  
498 ~~facilities~~ facility shall be maintained in good repair.

499 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
500 **throughout the Code any word used in the singular includes the plural and vice versa.**  
501 **Language is updated for modern usage and clarity.**

502 § ~~45.1-161.237~~ 45.2-xxx. Lighting.

503 A. Lights shall be provided as needed in or on ~~a surface-structures~~ mine structure,  
504 enclosure, or other facility.

505 B. ~~Roads, paths and walks~~ Each road, path, or walk outside of ~~structures~~ a structure,  
506 enclosure, or other facility shall be kept free from obstructions and shall be ~~well illuminated,~~  
507 well-illuminated if it is used at night.

508 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
509 **throughout the Code any word used in the singular includes the plural and vice versa.**  
510 **Language is updated for modern usage and clarity.**

511 § ~~45.1-161.238~~ 45.2-xxx. Flammable or combustible materials.

512 A. Oil, grease, and any similar flammable-materials or combustible material shall be  
513 kept in ~~a closed-containers~~ container, separate from other materials, so as ~~not to create a to~~  
514 prevent any fire hazard to nearby buildings or mines. If ~~oil or grease,~~ grease, or any similar  
515 flammable material is stored in a building, the building or room in which it is stored shall be ~~of~~  
516 ~~fireproof construction~~ fireproof and ~~well-ventilated~~ well-ventilated.

517 B. ~~Oily rags~~ Any oily rag, oily waste, and or wastepaper shall be kept in ~~a closed metal~~  
518 ~~containers~~ container until removed for disposal.

519 C. The area within 100 feet of ~~all~~ each mine ~~openings~~ opening shall be kept free of  
520 flammable or combustible material; however, this provision shall not apply to the temporary  
521 storage of not more than ~~a one-day's~~ one-day's supply of such ~~materials~~ material.

522 D. ~~All~~ Every oxygen ~~and or~~ acetylene ~~bottles~~ bottle shall be (i) stored with its cap in  
523 place in racks designated and a rack constructed and designated for the storage of such bottles  
524 ~~with caps in place and~~ (ii) secured when not in use. ~~Any storage~~ Smoking shall be prohibited  
525 in any place for where such materials are stored. Signs indicating that smoking is prohibited in  
526 the area shall be posted ~~to prohibit smoking~~.

527 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
528 **throughout the Code any word used in the singular includes the plural and vice versa.**  
529 **Language is updated for modern usage and clarity.**

530 § ~~45.1-161.239~~ 45.2-xxx. ~~Crane~~ Hazardous crane operations.

531 A crane operator shall at all times during any hazardous crane operation maintain visual  
532 or auditory communication with all persons involved in ~~the~~ such crane operation.

533 **Drafting note: Language is updated for modern usage and clarity.**

534 § ~~45.1-161.240~~ 45.2-xxx. Controlling dust at the surface.

535 A. In each ~~surface structures~~ structure, enclosure, or facility at any excessively dusty  
536 ~~mines, mine, every electric motors~~ motor, switches switch, lighting ~~fixtures~~ fixture, and ~~controls~~  
537 control shall be protected by dust-tight construction.

538 B. ~~Surface structures~~ Each surface structure and piece of equipment shall be kept free  
539 of coal dust accumulations.

540 C. ~~Where~~ If mining operations raise an excessive amount of dust into the air, such dust  
541 shall be allayed at its sources by the use of ~~water or,~~ water with a wetting agent added to it, or  
542 ~~other another~~ effective methods shall be used to allay such dust at its sources method.

543 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
544 **throughout the Code any word used in the singular includes the plural and vice versa.**  
545 **Language is updated for modern usage and clarity, including by reorganizing the text in**  
546 **subsection C.**

547 § ~~45.1-161.241~~ 45.2-xxx. Scaffolding and overhead protection.

548 ~~Where~~ Proper scaffolding or proper overhead protection shall be provided (i) where  
549 repairs are being made to the plant, a facility or (ii) where equipment or material is being used  
550 or transported overhead, proper scaffolding or proper overhead protection shall be provided.

551 **Drafting note: Language is updated for modern usage and clarity, including by**  
552 **reorganizing the text.**

553 § ~~45.1-161.242~~ 45.2-xxx. Welding and cutting.

554 ~~Welding~~ No welding or cutting with arc or flame shall ~~not~~ be done in an excessively  
555 dusty atmospheres atmosphere or dusty locations location. ~~Fire fighting~~ Firefighting apparatus  
556 shall be readily available when such welding or cutting is performed.

557 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
558 **throughout the Code any word used in the singular includes the plural and vice versa.**  
559 **Language is updated for modern usage and clarity.**

560 § ~~45.1-161.243~~ 45.2-xxx. Fire prevention and fire control.

561 The provisions of Article ~~5~~ XX (§ ~~45.1-161.265~~ 45.2-xxx et seq.) of Chapter ~~14.4~~ of  
562 ~~this title 9~~ shall apply with respect to ~~requirements~~ any requirement for ~~fire-fighting~~ firefighting  
563 equipment, duties in the event of a fire, ~~and or~~ and fire precautions at the ~~any~~ any surface ~~areas~~ area of  
564 an underground coal ~~mines~~ mine.

565 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
566 **throughout the Code any word used in the singular includes the plural and vice versa.**  
567 **Language is updated for modern usage and clarity.**

568 § ~~45.1-161.244~~ 45.2-xxx. Surface equipment.

569 The provisions of Article ~~6~~ XX (§ ~~45.1-161.268~~ 45.2-xxx et seq.) of Chapter ~~14.4~~ of  
570 ~~this title 9~~ shall apply with respect to equipment at the any surface ~~areas~~ area of an underground  
571 coal ~~mines~~ mine.

572 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
573 **throughout the Code any word used in the singular includes the plural and vice versa.**

574 § ~~45.1-161.245~~ 45.2-xxx. Travel ways, and loading and haulage areas.

575 The provisions of Article ~~7~~ XX (§ ~~45.1-161.275~~ 45.2-xxx et seq.) of Chapter ~~14.4~~ of  
576 ~~this title 9~~ shall apply with respect to any travel ~~ways~~ way, loading ~~area~~, and or haulage ~~areas~~  
577 area at the surface of an underground coal ~~mines~~ mine.

578 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
579 **throughout the Code any word used in the singular includes the plural and vice versa.**  
580 **Language is updated for modern usage and clarity.**

581 § ~~45.1-161.246~~ 45.2-xxx. Electricity.

582 The provisions of Article ~~9~~ XX (§ ~~45.1-161.279~~ 45.2-xxx et seq.) of Chapter ~~14.4~~ of  
583 ~~this title 9~~ shall apply with respect to any power ~~lines~~ line, ~~circuits~~ circuit, ~~transformers~~

584 ~~transformer, and~~ or other electric electrical equipment at ~~the any~~ surface areas area of an  
585 underground coal mines mine.

586 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
587 **throughout the Code any word used in the singular includes the plural and vice versa.**  
588 **Language is updated for modern usage and clarity.**

589 § ~~45.1-161.247~~ 45.2-xxx. Surface blasting.

590 The provisions of Article ~~10~~ XX (§ ~~45.1-161.284~~ 45.2-xxx et seq.) of Chapter ~~14.4~~ of  
591 ~~this title~~ 9 shall apply with respect to explosives ~~and or~~ blasting at the any surface areas area of  
592 an underground coal mines mine.

593 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
594 **throughout the Code any word used in the singular includes the plural and vice versa.**  
595 **Language is updated for modern usage and clarity.**

596 § ~~45.1-161.248~~ 45.2-xxx. Ground control.

597 The provisions of Article ~~11~~ XX (§ ~~45.1-161.287~~ 45.2-xxx) of Chapter ~~14.4~~ of ~~this title~~  
598 9 shall apply with respect to ~~the pits, highwalls, benches, banks, and walls~~ any pit, highwall,  
599 wall, bank, or bench associated with any coal mining ~~activities~~ activity conducted at ~~the any~~  
600 surface areas area of an underground coal mines mine.

601 **Drafting note: Technical changes are made pursuant to § 1-227, which states that**  
602 **throughout the Code any word used in the singular includes the plural and vice versa.**  
603 **Language is updated for modern usage and clarity.**

604 #

**VIRGINIA CODE COMMISSION**  
**BILL PATRONS**  
**2020 Session**

<b>Bills</b>	<b>Status</b>	<b>Patron</b>
<p><i>Note: Items in italics were approved conditionally pending information to be presented at December meeting</i></p>		
<p>Title 55.1, Property and Conveyances, technical corrections (Amigo, Kristen, Britt)</p>	<p>Will be presented at October meeting</p>	
<p>Motor vehicles (Emma)</p> <ul style="list-style-type: none"> <li>• Repeal §§ 46.2-1106 and 46.2-1107 (Bus widths in Arlington and other counties)</li> <li>• Repeal § 46.2-1580 (legislative findings) and amend § 46.2-1582 (enforcement)</li> <li>• <i>Repeal § 46.2-341.2 (statement of intent and purpose)</i></li> </ul>	<p><i>Approved at September meeting, except for 46.2-341.2. Waiting for information from VDOT about impact on federal funding. VDOT contacted federal agency and is waiting to hear back.</i></p>	
<p>Elections - restructure polling place activities sections (Meg)</p>	<p>Approved at August meeting</p>	
<p>Elections - restructure provisional voting sections (Meg)</p>	<p>Approved at August meeting</p>	
<p>Elections - restructure recounts sections (Brooks)</p>	<p>Approved at September meeting</p>	
<p>Housing (Amigo)</p> <ul style="list-style-type: none"> <li>• Amend § 36-85.4 by deleting purpose statement in first sentence</li> <li>• <i>Change population brackets to names of localities:</i>  § 36-19.1 (Roanoke)  § 36-19.4 (Portsmouth)  § 36-27.1 (Waynesboro)</li> </ul>	<p><i>In process of contacting VACO and localities involved</i></p>	
<p><i>Cemeteries - change population brackets to names of localities:(Brooks)</i>  § 57-392 (Scott and Wythe Counties)</p>	<p><i>In process of contacting VACO and localities involved</i></p>	
<p>Restructure § 54.1-3408 and related sections (prescribing, dispensing and administering controlled substances) (Sarah)</p>	<p>Will be presented at October meeting</p>	