

2015 GENERAL ASSEMBLY
ELDER LAW SUMMARY

April 2015¹

Long-Term Care

SB 750—Black and Barker—Hospitals; required notice to patients.

Adds §32.1-137.03 to require hospitals to provide oral and written notice within 24 hours to any patient who has been placed under observation or in any other outpatient status if (i) the patient receives onsite services from the hospital and (ii) such onsite services include a hospital bed and meals that are provided in an area of the hospital other than the emergency department. The notice must include a statement that the patient is not admitted as an inpatient but is in observation or other outpatient status; that observation status may affect the patient's Medicare or other insurance coverage of the current hospital services and of care at a skilled nursing facility or community-based care after discharge from the hospital; and that the patient should contact the identified hospital representative, health insurance plan, or QIO for more information and any available recourse. This bill incorporates [SB 857](#). Nearly same bill as HB 1509 (Sullivan) and HB 1561 (Rust) which failed to report from House HWI.

Approved by the Governor.

HB 1413—Filler-Corn and SB 851--Favola—Hospital discharge procedures; designation of individual to receive information and instructions.

Adds §32.1-137.03 to require hospitals to provide each patient admitted as an inpatient or his legal guardian the opportunity to designate an individual who will care for or assist the patient in his residence following discharge from the hospital and to whom the hospital shall provide information regarding the patient's discharge plan and any follow-up care, treatment, and services that the patient may require as well as the opportunity for a demonstration of specific follow-up care tasks that the designated individual will provide.

Approved by the Governor.

SB 944—Favola—Home health and hospice organizations; reporting requirements concerning health professionals.

Amends §54.1-2400.6 to require a director of a licensed home health organization, a director of a licensed hospice organization, and a director of an accredited home health organization exempt from licensure to report certain disciplinary actions against and certain disorders of health professionals to the Office of Licensure and Certification at the Department of Health.

Approved by the Governor.

HB 1733—Hodges—Delivery of prescription drug orders; PACE program.

¹ Unless otherwise noted, the highlighted bills have cleared the House and Senate and have been approved by the Governor. Those bills not highlighted died in either the House or Senate as indicated. Unless otherwise noted, new laws are effective July 1, 2015.

Amends §54.1-3420.2 to provide that prescription drug orders dispensed to a patient and delivered to a program of all-inclusive care for the elderly (PACE) facility licensed by the Department of Medical Assistance Services may be stored, retained, and repackaged at the facility on behalf of a patient for subsequent delivery or administration. The bill requires that repackaging of dispensed prescription drugs retained by the PACE facility be performed by a pharmacist, pharmacy technician, nurse, or other person who has successfully completed a Board-approved training program for such purpose. The bill directs the Board of Pharmacy to promulgate regulations related to training, packaging, labeling, and recordkeeping for such repackaging.

Approved by the Governor.

HB 1738—Hodges—Hospices; notice to dispenser of patient’s death.

Adds §32.1-162.5:1 to requires every hospice licensed by the Department of Health or exempt from licensure pursuant to § 32.1-162.2 with a hospice patient residing at home at the time of death to notify every pharmacy that has dispensed partial quantities of a Schedule II controlled substance for a patient with a medical diagnosis documenting a terminal illness, as authorized by federal law, within 48 hours of the patient's death.

Approved by the Governor.

HB 1868—Krupicka—Home care organizations; unlawful advertising.

Adds §32.1-162.15:1 to prohibit any person who is not licensed as a home care organization or exempt from licensure as a home care organization, or whose license as a home care organization has been suspended or revoked, or whose license as a home care organization has lapsed and has not been renewed from knowingly advertising or marketing himself as or otherwise holding himself out to be a home care organization or otherwise asserting or implying that he is licensed to provide home health, personal care, or pharmaceutical services. The bill also provides that a person who solely offers referrals of independent providers of home care or personal care services, and who advertises or markets himself as such, shall not be deemed to be holding himself out as, or asserting or implying that he is, a home care organization or otherwise licensed to provide home health or personal care services.

Approved by the Governor.

SJ 268—Hanger—Medicaid-funded long-term care; JLARC to study.

The introduced bill directed the Joint Legislative Audit and Review Commission to study pathways for determining eligibility for Medicaid-funded long-term care, the preadmission screening process, and long-term care financial eligibility laws, including the use of annuities to protect assets, transfer of assets, lien and estate recovery, the effects of MAGI eligibility standards, etc. . However, the bill that came out of conference directs JLARC to review the processes used to determine eligibility, including the financial eligibility screening process for long-term care services, whether asset sheltering could be further prevented and asset recoveries improved, and the effectiveness of existing fraud and abuse detection and prevention efforts; whether the most appropriate services are provided in a cost-effective manner; evidence based practices and strategies that have been successfully adopted in other states and could be used in Virginia and other relevant issues, and make recommendations as appropriate. The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2016.

SJ 240—Favola—Study; older Virginians’ access to oral health care; report.

Directs the Joint Commission on Health Care to study older Virginians' access to oral health care.

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Financial Exploitation, Abuse and Neglect of Elderly & Vulnerable Adults

HB 1558—Rust—Adult fatality review teams, local and regional; created, penalty.

Adds § 32.1-283.6 and amends §§ 2.2-3705.5, 2.2-3711, 2.2-4002, 32.1-283.5 and 63.2-1606 to allow for the creation of local or regional adult fatality review teams upon the initiative of any local or regional law-enforcement agency, department of social services, emergency medical services agency, attorney for the Commonwealth's office, or community services board. The bill provides that such teams may review the death of any person age 60 years or older, or any adult age 18 years or older who is incapacitated, who resides in the Commonwealth and who is in need of temporary or emergency protective services (i) who was the subject of an adult protective services or law-enforcement investigation; (ii) whose death was due to abuse, neglect, or exploitation or acts suggesting abuse, neglect, or exploitation; or (iii) whose death came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner as occurring in any suspicious, unusual, or unnatural manner. A violation of the confidentiality of the review process is punishable as a Class 3 misdemeanor.

Approved by the Governor.

HB 1559—Rust—Incapacitated adults; abuse or neglect, penalty.

Provides that any responsible person who abuses or neglects an incapacitated adult in a manner so gross, wanton, and culpable as to show a reckless disregard for human life, but whose abuse or neglect does not result in serious bodily injury or disease to the incapacitated adult, is guilty of a Class 6 felony.

Left in House Courts.

HB 1582—Watts—Suspected adult abuse, neglect, or exploitation; mandated reporters.

Requires any employee of the Office of the State Long-Term Care Ombudsman and any local ombudsman providing assistance to older individuals receiving long-term care services to report suspected adult abuse, neglect, or exploitation.

Left in HWI.

SB 1460—Barker—Financial exploitation of adults.

Provides that upon receipt of a report, or during an adult protective services investigation, of suspected financial exploitation of an adult in which financial losses to the adult resulting from the exploitation are suspected to be greater than \$100,000, the local department of social services or adult protective services hotline shall immediately refer the matter and all relevant documentation to both the State Police and the local law-enforcement agency where the adult resides or where the alleged exploitation took place or, if these places are unknown, where the alleged exploitation was discovered, for investigation.

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Guardianship, Powers of Attorney & Advance Directive Bills

HB 1657—Rust—Advance Directives; directions about life-prolonging procedures during pregnancy.

Amends § 54.1-2984 to add a section to the suggested form of written advance directives that allows a declarant to add specific instructions for life-prolonging procedures in case the declarant is pregnant when her attending physician determines that she has a terminal condition.

Approved by the Governor.

SB 1450—Obenshain—Privacy Expectation Afterlife and Choices Act.

Amends § 64.2-109 and -110 and adds §§ 64.2-111 through 64.2-115 to codify the Privacy Expectation Afterlife and Choices Act, which dictates the circumstances under which a provider of an electronic communications service or remote computing service may be required to disclose electronic communications to the personal representative of a deceased user's estate. The Act provides that a provider shall not be compelled to make such disclosure if doing so would be contrary to the deceased user's expressed intent. The Act further provides that a provider shall not be held liable in any civil or criminal action for compliance in good faith with a court order issued pursuant to the Act. Finally, the bill requests that the Joint Commission on Technology and Science study the implementation of this bill and develop legislative recommendations to address access to electronic communication records and digital account content by guardians ad litem, conservators, and other fiduciaries.

Approved by the Governor.

HB 1477—Leftwich—and SB 1452—Chafin—Creation of the Uniform Fiduciary Access to Digital Assets Act.

Codifies the Uniform Fiduciary Access to Digital Assets Act, which provides a fiduciary, including a personal representative, conservator, guardian, agent, or trustee, the power to access and control digital assets, including electronic records and communications. The uniform act was approved by the National Conference of Commissioners on Uniform State Laws in 2014.

Defeated in Courts.

HB 2153—Stolle—Medically or ethically inappropriate care; cessation of care.

Provides that, in cases in which a physician determines that medical care requested by a patient, his agent, or a person authorized to make decisions on the patient's behalf, an advance directive, or a Durable Do Not Resuscitate Order is medically or ethically inappropriate, the physician may cease to provide such care after making reasonable efforts for a 14-day period to transfer the patient to another physician who will provide the requested care.

Tabled in HWI.

SB 1270—Deeds—Admission of incapacitated persons pursuant to advance directive or by guardian; transportation; pilot program.

Provides that when the employee or designee of a local community services board who is conducting the evaluation of an individual required for the issuance of a temporary detention order into a facility for the treatment of mental illness and finds that the individual (i) has a mental illness, (ii) needs treatment in such a facility, (iii) lacks the capacity to consent to admission to the facility, and (iv) has designated an agent or has a guardian who has the authority to consent to the individual's admission, the evaluator shall contact the agent or guardian and determine whether the

agent or guardian authorizes the person's admission to such a facility. If the agent or guardian authorizes the person's admission, the evaluator shall request the magistrate to issue a transportation order providing for the transport of the person to the facility by law enforcement or an alternative transportation provider. The bill also authorizes such employee or designee of a local community services board to be a capacity reviewer for purposes of determining whether a person who has executed an advance directive is incapable of making an informed decision in regard to mental health care, including his admission to a facility for the treatment of mental illness. Current law allows only a licensed physician or a clinical psychologist to act as a capacity reviewer. The provisions of the bill only apply in those localities in which the State Board of Behavioral Health and Developmental Services has established a pilot program. The bill provides that any pilot program established by the Board shall commence on July 1, 2016, and that the Board shall report on the implementation and effectiveness of the pilot program no later than November 30, 2017. The provisions of the bill expire on July 1, 2018.

Defeated in Courts.

APA

HB 1899—DeSteph—and SB 1198—Wagner--Administrative Process Act; legislative review of regulations.

Amends §§ 2.2-4013 and 2.2-4014 to extend the period during which the relevant standing committee of both houses of the General Assembly or the Joint Commission on Administrative Rules may transmit, with the Governor's concurrence, a statement directing the suspension of the effective date of a portion or all of a final regulation. Under current law, the statement must be filed within the 30-day final adoption period. The bill provides that if the promulgating agency has specified a later effective date, the statement may be transmitted at any time prior to the specified later effective date. The bill contains technical amendments.

Approved by the Governor.

HB 1751—Ransone--Administrative Process Act; certain review by Jt. Commission on Administrative Rules.

Amends §2.2-4007.04 and § 30-73.3 to provide that in the event the economic impact analysis completed by the Department of Planning and Budget reveals that a proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period allowed for preparation of the economic impact analysis. The bill requires the Joint Commission on Administrative Rules to review such rule or regulation and report quarterly to the Governor and the General Assembly on any such regulation, including in its report a statement of any position taken by the Commission on any such regulation.

Approved by the Governor.

SB 927—Edwards—Administrative Process Act; process for disqualification of hearing officer.

Amends § 2.2-4024 and adds § 2.2-4024.1 to establish a process for the disqualification of presiding officers and hearing officers in situations where such officers cannot accord a fair and impartial hearing or consideration, or when required by the applicable rules governing the practice of law. The reasons that a presiding officer or hearing officer may be disqualified include prejudice, financial interest, ex parte communications, or any other factor that would cause a reasonable person to question the impartiality of the presiding officer or hearing officer. In addition, the bill establishes a process for challenging the initial decision to not disqualify. This bill is a recommendation of the Virginia Code Commission.

Approved by the Governor.

SB 928—Edwards—Administrative Process Act; default by nonappearing party.

Adds § 2.2-4020.2 to establish a mechanism to more efficiently dispose of contested matters under the Virginia Administrative Process Act where the defendant in an administrative proceeding fails to appear at a hearing without a valid excuse. Currently, unless an agency's enabling statute provides differently, there is no provision for allowing an agency to enter a default order in a case in which the defendant fails to appear at a hearing. The bill provides that it shall not apply to any administrative hearings process that is governed by § 32.1-325.1 relating to provider appeals. This bill is a recommendation of the Virginia Code Commission.

Approved by the Governor.

SB 1282—Edwards—Administrative Process Act; disciplinary proceedings.

Establishes a process for the disqualification of presiding officers and hearing officers. The bill also specifies the information that an agency must provide parties to a formal proceeding including (i) the names and addresses of witnesses the agency will present at the hearing unless disclosure would be otherwise prohibited by law, (ii) copies of statements of parties and witnesses proposed to be called by the agency, (iii) copies of all records and other evidence that the agency proposes to offer, (iv) copies of investigative reports made by or on behalf of the agency pertaining to the subject matter of the adjudication, (v) copies of statements of expert witnesses proposed to be called by the agency, and (vi) any exculpatory material in the possession of the agency.

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Mental Health

HB 1693—Bell—and SB 1263—Deeds--Civil admission process; alternative transportation.

Amends §§ 16.1-340, -340.2, -345 and 37.2-808, -810, and -829 to provide that a magistrate may authorize alternative transportation for a person subject to an emergency custody order or temporary detention order when there exists a substantial likelihood that the person will cause serious physical harm to himself or others. Current law prohibits the use of alternative

transportation when there exists a substantial likelihood that the person will cause serious physical harm to himself or others. The bill also provides liability protection for alternative transportation providers.

Approved by the Governor.

HB 1747—O’Bannon—Health insurance; mental health parity.

Amends §§ 38.2-3412.1, -3418.17, -4300, -4319 and -5800 and repeals § 38.2-3412.1:01 to conform certain requirements regarding coverage for mental health and substance use disorders to provisions of the federal Mental Health Parity and Addiction Equity Act of 2008 (the Act). The measure requires that group and individual health insurance coverage provide mental health and substance use disorder benefits. Such benefits shall be in parity with the medical and surgical benefits contained in the coverage in accordance with the Act, even where those requirements would not otherwise apply directly. The measure requires the Bureau of Insurance to develop reporting requirements regarding denied claims, complaints, and appeals involving such coverage and to compile the information into an annual report. The bill contains a technical amendment.

Approved by the Governor.

SB 1264—Deeds—Law enforcement access to involuntary admission and incapacity records.

Amends §§ 19.2-389, 37.2-819, and § 64.2-2014 to provide that certain information related to persons adjudicated incapacitated or ordered to involuntary inpatient or outpatient treatment or to persons who were subject to a temporary detention order who agreed to voluntary admission may be disseminated to a full-time or part-time employee of a law-enforcement agency for purposes of the administration of criminal justice.

Approved by the Governor.

SB 1265—Deeds—and HB 2118—Cline--Acute psychiatric bed registry.

Amends § 37.2-308.1 to require state facilities, community services boards, behavioral health authorities, and private inpatient psychiatric service providers to update information included in the acute psychiatric bed registry whenever there is a change in bed availability for the facility, board, authority, or provider or, if no change in bed availability has occurred, at least once daily.

Approved by the Governor.

SB 1114—Barker—Emergency custody order; temporary detention for testing, observation, and treatment.

Amends §§ 37.2-808 and 37.2-1104 to provide that a court or magistrate may issue an order for temporary detention for medical testing, observation, and treatment for a person who is also the subject of an emergency custody order for evaluation and treatment of mental illness. Upon completion of any required testing, observation, or treatment, the hospital emergency room or other appropriate facility in which the person is temporarily detained shall notify the nearest community services board, and a designee of the community services board shall complete the evaluation as soon as is practicable but prior to the expiration of the order for temporary detention for testing, observation, or treatment.

Approved by the Governor.

SB 1300—Newman--Training centers, prohibition of closure.

Provides that the Northern Virginia Training Center shall not be closed prior to December 31, 2016, and shall not be declared surplus on any land use plan developed by the Department of Behavioral Health and Developmental Services. The bill directs the Secretary of Health and Human Resources to identify by November 30, 2015, at least three training centers that shall not be subject to closure and requires such training centers to remain open and to continue to accept new admissions of individuals with intellectual disability for whom treatment in a training center is appropriate.

PBI'd in Senate Finance.

Voting

HB 1318—Campbell—Applications for Absentee Ballots; Photo identification required.

Amends § 24.2-701 to require that any voter submitting his application for an absentee ballot by mail or by electronic or telephonic transmission to a facsimile device shall submit with his application a copy of one of the forms of identification acceptable under current law. The bill exempts from this requirement military and overseas voters and persons with a disability. Currently, only a voter who completes his application for an absentee ballot in person is required to show a form of identification.

Vetoed by the Governor.

Wills and Estates

HB 1350—Habeeb—Personal Injury or Wrongful Death Action; appointment of administrator.

Amends § 64.2-454 to impose a minimum interval of 60 days between a person's death and a circuit court clerk's appointment of an administrator for prosecution of a personal injury or wrongful death action against or on behalf of the decedent, when an executor or administrator of the estate has not been appointed.

Approved by the Governor.

HB 2016—Surovell—and SB 963—Stanley--Action for personal injury or wrongful death; qualification of fiduciary.

Amends § 8.01-606 and § 64.2-454 to provide that when a fiduciary qualifies for the sole purpose of prosecuting or defending a personal injury or wrongful death action, the court in which the fiduciary qualifies or the commissioner of accounts for such court may exempt the fiduciary from filing further accounts where the fiduciary is not administering any funds and has no power of sale over any real estate the decedent owned. The bill also provides that when an administrator is appointed solely to prosecute or defend a personal injury or wrongful death action, the administrator is qualified to prosecute both types of actions.

Approved by the Governor.

SB 762—Edwards—Tenancy by the entireties; property held in trust.

Amends § 55-20.2 to clarify that the proceeds of the sale of property held as tenants by the entireties in a trust retain the same immunity from a separate creditor of one spouse as is provided for the property itself. The bill also clarifies that property held in trust where both spouses are

beneficiaries of one trust or where each spouse is a beneficiary of a separate trust and the two separate trusts together hold the entire property is a tenancy by the entirety, provided that the other requirements for such a tenancy are met. Finally, the bill clarifies that the creditor protection provided under current law may be waived. The provisions of this bill apply to any property of a husband and wife that is held by them as tenants by the entirety and conveyed to their joint revocable or irrevocable trusts, or to their separate revocable or irrevocable trusts, regardless of whether such conveyance occurred before or after the effective date of this bill.

Approved by the Governor.

SB 865—Chafin—Intestate estate; administration by person convicted of fraud, misrepresentation, robbery, etc.

Amends § 64.2-502 to provide that the clerk of court shall require any person seeking to be granted the administration of an estate to sign under oath that he has not been convicted of a felony offense of (i) any fraud or misrepresentation or (ii) robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, perjury, bribery, treason, or racketeering, regardless of whether his civil rights have been restored. The bill also provides that if the person convicted of such felony offense is the sole distributee of the estate, then the court or clerk may grant administration to such person if he is otherwise suitable and competent to perform the duties of his office.

Approved by the Governor.

HB 1798—Knight—Qualification of fiduciary without security; issuance of certificates of qualification; payments.

Amends § 64.2-1411 to set out the requirements for the certificates of qualification issued by the court or clerk where the total amount does not exceed \$25,000. The bill also sets out the procedure for payments made to the named fiduciary of any asset belonging to or owed to the specified deceased or incapacitated person or minor and provides that assets held in a safe deposit box are not counted towards the \$25,000 limit. The bill further provides that the clerk shall not be liable for any misrepresentations of a fiduciary with regard to whether the estate qualifies for the small asset estate exemption or for the performance of any of the clerk's duties with regard to issuing certificates of qualification except in the case of the clerk's gross negligence or intentional misconduct.

Approved by the Governor.

SB 1064—Obenshain—Administration of estates; liability of heir or devisee for real estate conveyed.

Amends § 64.2-534 to provide that real estate sold or conveyed as part of a decedent's estate is not liable to persons entitled to be paid out of such real estate if the sale was made more than one year after the death of the decedent, the conveyance was bona fide, and no debts or demands report has been filed prior to the sale. The bill returns the law to its state prior to the recodification of Title 64.1 in 2012.

Approved by the Governor.

HB 2229—Minchew—Small estates; checks and negotiable instruments.

Amends § 64.2-601 to provide that if the successor to a decedent receives certain small assets in the form of checks, drafts, or other negotiable instruments that are payable to the decedent's estate, the successor may endorse or negotiate such checks, drafts, or other negotiable instruments.

Approved by the Governor.

SB 951—Alexander—Disposition of dead bodies.

Amends §§ 32.1-309.1, -309.2, 54.1-2800, and 54.1-2818.1 to clarify the role of a person other than a decedent's next of kin, a person designated to make arrangements for the decedent's burial or the disposition of his remains, an agent named in an advance directive, or a court-appointed guardian to make decisions regarding the disposition of a decedent's remains. The bill defines "disposition" as the burial, interment, entombment, cremation, or other authorized disposition of a dead body.

Approved by the Governor.

Miscellaneous

HB 1808—Herring—and SB 1184—McDougle--Missing persons; search and rescue.

Amends §§ 9.1-102 and 44-146.18 and adds § 15.2-1718.2 to provide that no local law-enforcement agency shall establish or maintain any policy that requires a waiting period before accepting a critically missing adult report and requires a local law-enforcement agency that receives such a report to initiate an investigation of the case within two hours of receipt. The bill defines a critically missing adult as any missing adult 21 years of age or older whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances. The bill requires the Department of Criminal Justice Services to establish training standards and publish a model policy for missing children, missing adults, and search and rescue protocol. The bill also requires the Department of Emergency Management to establish a Coordinator of Search and Rescue.

Approved by the Governor.

HB 2068—Keam—Senior citizens higher education; income limit.

Amends § 23-38.56 to increase from \$15,000 to \$23,850 the maximum taxable individual income for senior citizens who wish to register for and enroll in courses as a full-time or part-time student for academic credit, tuition free, at a public institution of higher education.

Approved by the Governor.

HB 2306—Filler-Corn—and SB 1404—Stosch—Achieving a Better Life Experience (ABLE) savings trust accounts established.

Amends §§ 23-38.75, -38.76, -38.77, -38.80, -38.81 and § 58.1-322 to establish ABLE savings trust accounts to be administered by the Virginia College Savings Plan to facilitate the saving of private funds for paying the qualified disability expenses of certain disabled individuals. Under the federal Achieving a Better Life Experience Act of 2014, Congress authorized states to establish ABLE savings trust accounts to assist individuals and families in saving and paying for the education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, and other expenses of individuals who were disabled or blind prior to the age of 26. The Virginia College Savings Plan will be the designated state agency administering ABLE savings trust accounts. Earnings on contributions to ABLE savings trust accounts are exempt from federal income tax. Because Virginia conforms to the federal income tax laws,

earnings on contributions to ABLE savings trust accounts will also be excluded from Virginia taxable income.

Approved by the Governor.

SB 732—Stanley (incorporates SB 1149 and SB 1222)—and HB 1750—Ransone—Expanded access to investigational drugs, biological products, and devices.

Adds Article 4.1 to Title 54.1, consisting of sections §§ 54.1-3442.1 through 54.1-3442.4. Provides that a manufacturer of an investigational drug, biological product, or device may make such drug, product, or device available to a person who has a terminal illness when (i) the person has, in consultation with his treating physician, considered all other treatment options currently approved by the U.S. Food and Drug Administration and the treating physician has determined that no reasonable opportunity exists for him to participate in an ongoing clinical trial; (ii) the potential benefits of use of the investigational drug, biological product, or device to treat his terminal condition are greater than the potential risks of use of the investigational drug, biological product, or device, (iii) the person has received a recommendation from his treating physician for use of an investigational drug, biological product, or device for treatment of his terminal illness; and (iv) the person has provided written informed consent. The bill provides that a manufacturer that provides such drug, product, or device may provide it free of charge or may require the person to pay costs associated with its manufacture and provides that health insurance providers may, but are not required to, provide coverage for costs associated with use of such drug, product, or device. The bill also provides immunity from civil liability for a health care provider who recommends an investigational drug, biological product, or device and for a manufacturer, distributor, administrator, health care provider, sponsor, or physician who manufactures, supplies, distributes, administers, prescribes, or recommends an investigational drug, biological product, or device, and provides that no claim or cause of action against a manufacturer, distributor, administrator, health care provider, sponsor, or physician who manufactures, supplies, distributes, administers, prescribes, or recommends an investigational drug, biological product, or device shall exist in any state court for claims of property, personal injury, or death caused by, arising out of, or relating to the design, developmental, clinical testing, or investigation, manufacture, labeling, distribution, sale, purchase, donation, dispensing, prescription, recommendation, administration, efficacy, or use of such investigational drug, biological product, or device. The bill provides that no health care provider who recommends, prescribes, administers, distributes, or supplies an investigational drug, biological product, or device shall be deemed to have engaged in unprofessional conduct or shall be adversely affected in any decision relating to licensure on such grounds, and provides that nothing shall require any person to violate or act in contravention of any federal or state law as such law related to the prescribing, dispensing, administration or use of an investigational drug, biological product, or device.

Approved by the Governor.