

During the 2026 General Assembly Session, legislators sought to update standards for designation of levels of care in neonatal services. This document provides a summary of the changes to law and provides background and guidance to assist you in compliance.

If you have any questions or require additional information, please contact Brent Rawlings brawlings@vhha.com or Julie Dime jdime@vhha.com.

Summary

AMENDS EXISTING LAW

HB456 (Willett)/ SB291 (Aird) directs the State Board of Health to establish standards for designation of levels of care in neonatal services consistent with, but not necessarily identical to, standards published by the American Academy of Pediatrics (AAP). **The law directs the Board of Health to promulgate regulations to implement the provisions of the legislation by July 1, 2027, and prohibits enforcement of such regulations until July 1, 2029.**

Action Required

Review existing general, intermediate, specialty, and subspecialty levels of neonatal services at your facility and assess alignment with AAP standards. Begin identifying any potential gaps that may require more rigorous procedural, equipment, or staffing requirements than are currently in place and begin planning for adaptation to AAP standards at your facility prior to the July 1, 2029, deadline for enforcement.

Background Information

The existing regulations for designation of general, intermediate, specialty, and subspecialty levels of neonatal services have not been updated for several years, with some providers of neonatal services identifying requirements in regulation that are now inapplicable or may not represent current standards of care, and in some instances resulting in the need for variances by the Virginia Department of Health. In recognition of the need for updated regulations, this legislation identified neonatal levels of care established by the American Academy of Pediatrics (AAP) as the preferred standard upon which updated regulations should be based.

In response to the proposed legislation, VHHA expressed concerns that it is unclear precisely how the AAP standards will align with the general, intermediate, specialty, and subspecialty levels established under current regulations. It is possible that use of the AAP standards could result in some newborn nursery or neonatal intensive care units being reclassified to a different level or that the standards could necessitate hospitals to meet more rigorous procedural, equipment, or staffing requirements and incur additional costs to maintain current levels. Accordingly, VHHA advocated for some flexibility that would allow the Virginia Department of Health to adopt slightly different standards that are consistent with, but not necessarily identical, to AAP. Additionally, recognizing that some time may be needed to make changes to neonatal services in compliance with the new regulations, VHHA advocated for the implementation date to be delayed until July 1, 2029.

Statutory Text

(NOTE: The language in *italics* and ~~strike through~~ are the only changes to the law. All other language and requirements under the law remain unchanged.)

1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-127. Regulations.

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

B. Such regulations:

...

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols consistent with, but not necessarily identical to, the criteria outlined in the most current version of, or an official update to, the Standards for Levels of Neonatal Care: II, III, IV published by the American Academy of Pediatrics;

...

2. That the Board of Health shall promulgate regulations to implement the provisions of this act by July 1, 2027.

3. That, notwithstanding any other provision of law, no person shall be subject to any penalty, sanction, or enforcement action for noncompliance with regulations promulgated pursuant to the second enactment of this act prior to July 1, 2029. The provisions of this act shall become enforceable on July 1, 2029.

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