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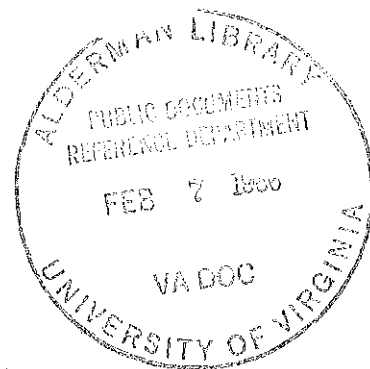
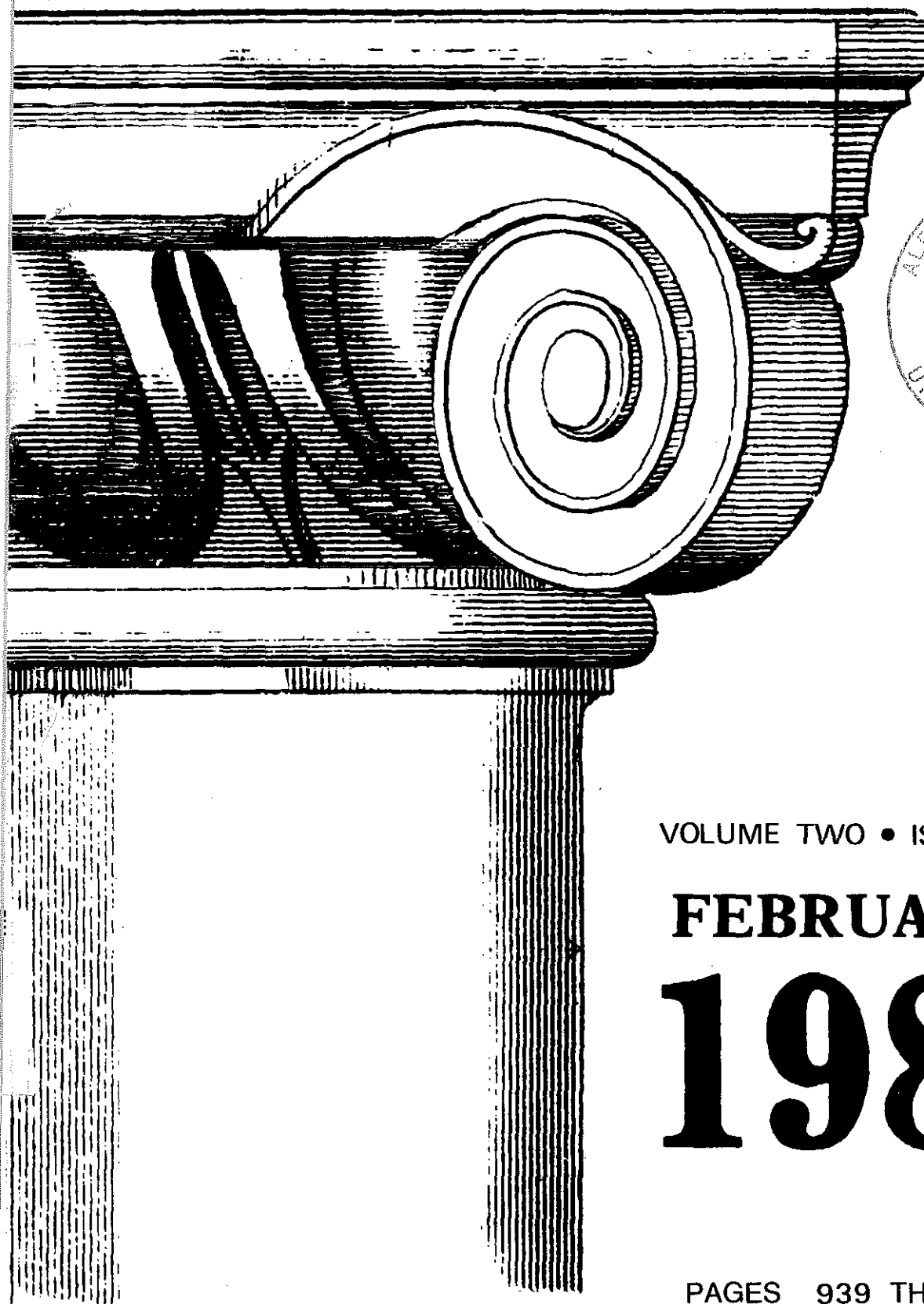
THE VIRGINIA REGISTER

OF REGULATIONS

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FEBRUARY 3

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PAGES 939 THROUGH 1054

INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued monthly by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and

require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **1:3 VA.R. 75-77 November 12, 1984** refers to Volume 1, Issue 3, pages 75 through 77 of the *Virginia Register* issued on November 12, 1984.

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VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

PUBLICATION DATE	MATERIAL SUBMITTED BY 12 noon Wednesday
July 8	June 21
Index	
July 22	July 3
Aug. 5	July 17
Aug. 19	July 31
Sept. 2	Aug. 14
Sept. 16	Aug. 28
Sept. 30	Sept. 11
Final Index - Volume I	
Oct. 14	Sept. 25
Oct. 28	Oct. 9
Nov. 11	Oct. 23
Nov. 25	Nov. 6
Dec. 9	Nov. 20
Dec. 23	Dec. 4
Index	
Jan. 6 1986	Dec. 18
Jan. 20	Dec. 31 (Tuesday)
Feb. 3	Jan. 15
Feb. 17	Jan. 29
Mar. 3	Feb. 12
Mar. 17	Feb. 26
Index	
Mar. 31	Mar. 12
Apr. 14	Mar. 26
Apr. 28	Apr. 9
May 12	Apr. 23
May 26	May 7
June 9	May 21
June 23	June 4
Index	
July 7	June 18
July 21	July 2
Aug. 4	July 16
Aug. 18	July 30
Sept. 1	Aug. 13
Sept. 15	Aug. 27
Sept. 29	Sept. 10
Final Index - Volume II	

TABLE OF CONTENTS

PROPOSED REGULATIONS

VIRGINIA BOARD OF DENTISTRY

Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene (VR 255-01-1)	941
--	-----

VIRGINIA STATE LIBRARY BOARD

Standards for the Microfilming of Public Records for Archival Retention (VR 440-01-137.1)	951
---	-----

Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process (VR 440-01-137.2)	953
---	-----

Minimum Standards for Instruments Recorded by a Microphotographic Process (VR 440-01-137.3)	956
---	-----

Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition (VR 440-01-137.4)	956
--	-----

Standards for Computer Output Microfilm (COM) for Archival Retention (VR 440-01-137.5)	958
--	-----

VIRGINIA BOARD OF OPTOMETRY

Regulations of the Virginia Board of Optometry (VR 510-01-1)	960
--	-----

VIRGINIA BOARD OF VETERINARY MEDICINE

Regulations Governing the Practice of Veterinary Medicine (VR 645-01-1)	964
---	-----

FINAL REGULATIONS

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984 (VR 394-01-22)	973
---	-----

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Rules and Regulations to Assure the Rights of Clients in Community Programs (VR 470-03-03)	973
--	-----

DEPARTMENT OF SOCIAL SERVICES

Real Property Disposition Period in the Aid to Dependent Children (ADC) Program (VR 615-01-8) ..	983
--	-----

Rules of the Interdepartmental Committee on Rate-Setting: The Joint Regulations on Rate-Setting for Children's Facilities of the Board of Corrections (VR 230-40-002); the Board of Education (VR 270-01-0005); and the Board of Social Services (VR 615-52-11)	984
---	-----

STATE CORPORATION COMMISSION

ORDERS

In the Matter of Adopting Rules Governing the Definition of the Network Termination Interface (PUC830039)	1012
---	------

FINAL REGULATIONS

Rules Governing the Provision of Network Interface Devices	1013
--	------

BUREAU OF INSURANCE

Changes in the Licensing Procedure of Agents in Accordance with House Bill 1715 (No. 1985-19) ..	1014
--	------

LEGISLATIVE OBJECTIONS AND RESPONSES

Board of Housing and Community Development

Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984 (VR 394-01-22)	1017
---	------

GOVERNOR

EXECUTIVE ORDERS

Order Number One (86) Equal Employment Opportunity	1018
---	------

Order Number Two (86) Creating Governor's Commission of Efficiency in Government	1018
---	------

Table of Contents

Order Number Three (86)	
Authority and Responsibility of Chief of Staff	1019

GOVERNOR'S COMMENTS

Criminal Justice Services Board

Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II (VR 240-02-1)	1020
--	------

Department of Health Division of Solid and Hazardous Waste Management

Virginia Hazardous Waste Management Regulations - Amendment 7 (VR 355-22-2.1)	1020
Regulations Governing the Transportation of Hazardous Materials - Amendment 5 (VR 355-22-3.1)	1020
Sewage Handling and Disposal Regulations (VR 355-34-02)	1020

Department of Mental Health and Mental Retardation

Rules and Regulations for the Licensure of Correctional Psychiatric Facilities (VR 470-02-07)	1020
---	------

Department of Social Services

Standards and Regulations for Licensed Adult Day Care Centers (VR 615-21-02)	1020
--	------

Department of Taxation

Cigarette Sales Below Wholesale Cost Act: Public Policy; Prohibited Activities; Violation Enforcement (VR 630-27-286), Definitions (VR 630-27-287), Combination Sales and Concessions (VR 630-27-288), Unfair Method of Competition (VR 630-27-289), Injunctive Relief and Damages (VR 630-27-290), Revocation or Suspension of Licenses or Permits for Violations (VR 630-27-291), Exemption or Suspension of Licenses or Permits for Violations (VR 630-27-292), Special Cost Provisions; Cash and Carry (VR 630-27-293)	1020
--	------

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION ..

GENERAL NOTICES	1021
-----------------------	------

Department of Criminal Justice Services	1023
Notice to State Agencies	1023
Notice to Trade Organizations and Associations ..	1023

ERRATA

Virginia Department of Agriculture and Consumer Services

Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores (VR 115-05-11)	1024
--	------

Department of Social Services

Regulation for Criminal Record Checks: Licensed Child Care Centers and Child Care Institutions (VR 615-31-02)	1024
---	------

Department of Taxation

Individual Income Tax: Taxable Income of Nonresidents (VR 630-2-325)	1024
Virginia Cattle Assessment Regulations (VR 630-28-796.13 through VR 630-28-796.27)	1024

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings	1025
---	------

LEGISLATIVE

Notice to Subscribers	1052
-----------------------------	------

CHRONOLOGICAL LIST

Open Meetings	1052
Public Hearings	1054

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

VIRGINIA BOARD OF DENTISTRY

Title of Regulation: VR 255-01-1. Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene.

Statutory Authority: § 54-163 of the Code of Virginia.

Public Hearing Date: April 10, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

These proposed regulations state the requirements for licensure of dentists and dental hygienists in the Commonwealth of Virginia. The regulations are proposed by the Virginia Board of Dentistry under the authority of Chapter 8 of Title 54 (§ 54-146 et seq.) of the Code of Virginia.

The board believes that each practitioner in the field of dentistry is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of dentistry.

The licensed dentist and dental hygienist shall be responsible and accountable for making decisions that are based upon educational preparation and experience in dentistry and dental hygiene respectively. The practitioner shall be held accountable for the quality and quantity of dental care given to patients by himself or others who are under his supervision as set forth in these regulations.

The practitioner shall be held accountable for the quality and quantity of dental care given to patients by himself based upon educational preparation and experience.

Because of the number of changes involved, the Virginia Board of Dentistry intends to repeal its regulations adopted on September 20, 1984, and replace them with these proposed regulations upon their adoption as the result of the comprehensive review of the existing regulations completed in 1984 pursuant to Executive Order 52 (84).

VR 255-01-1. Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the content clearly indicates otherwise:

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products. (§§ 54-163; 54-187 (7) of the Code of Virginia)

"Approved schools" means those dental schools, colleges, departments of universities or colleges or schools of dental hygiene currently approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association, which is hereby incorporated by reference. (§§ 54-163; 54-170 of the Code of Virginia)

"Competent instructor" means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in the Commonwealth. (§ 54-147 (3) of the Code of Virginia)

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under these regulations but shall not include an individual serving in purely a secretarial or clerical capacity. (§§ 54-147 (1); 54-170 of the Code of Virginia)

"Dental hygiene student" means any person currently enrolled and attending an approved school/program of dental hygiene. No person shall be deemed to be a dental hygiene student who has not begun the first year of enrollment in school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled. (§ 54-200.9 of the Code of Virginia)

"Dental student" means any person currently enrolled and attending an approved school of dentistry but shall not include persons enrolled in schools/programs of dental hygiene. No person shall be deemed to be a dental student who has not begun the first year of enrollment in school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled. (§ 54-147 (3) of the Code of Virginia)

Proposed Regulations

"Diagnosis" means a written opinion of findings in an examination. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

"Examination of patient" means a study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

"General anesthesia" means a controlled state of depressed consciousness accompanied by a partial or complete loss of protective reflexes, including the inability to maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method or a combination thereof. (§ 54-163 of the Code of Virginia)

"Local anesthesia" means the loss of sensation or pain in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness. (§ 54-163 of the Code of Virginia)

"Monitoring of general anesthesia and parenteral sedation" includes the following: recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level. (§ 54-147 (1) of the Code of Virginia)

"Monitoring of nitrous oxide inhalation conscious sedation" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the anesthesia and observing the patient's vital signs. (§ 54-147 (1) of the Code of Virginia)

"Nitrous oxide inhalation conscious sedation" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness. (§ 54-163 of the Code of Virginia)

"Parenteral sedation (intravenous, intramuscular, subcutaneous, submucosal, or rectal)" means a depressed level of consciousness that maintains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method or a combination thereof. (§ 54-163 of the Code of Virginia)

"Radiographs" means intraoral and extraoral x-rays of the hard and soft oral structures to be used for purposes of diagnosis. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

"Recognized governmental clinic" means any clinic

operated or funded by any agency of state or local government which provides dental services to the public, the dental services of which shall be provided by a licensed dentist or by persons who may be authorized herein to provide dental services under the supervision of a dentist. (§§ 54-146; 54-167 of the Code of Virginia)

"Direct supervision" means the presence of the dentist for the immediate observation, advice, control and direction over the performance of dental services; or

"General supervision" means that the dentist has authorized and delegated the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan; without the requirement that the dentist be present in the facility. (§§ 54-147 (1); 54-172; 54-200.2; 54-200.7 of the Code of Virginia)

§ 1.2. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Dentistry will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is a proposed or existing regulation.
3. Final regulation adopted.

B. Being placed on list and deletion.

Any person wishing to be placed on the mailing list may have his name added by writing the board. In addition, the agency or board may, in its discretion, add to the list any person, organization, or publication whose inclusion it believes will further the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals, and organizations will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Administrative Process Act, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of

Regulations.

D. Information proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and the cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately from or in conjunction with other informational proceedings.

E. Petition of rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

When a proposed regulation is formulated at any meeting of the board or of a board subcommittee or and when any regulation is adopted by the board, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it deems necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations. (§ 9-6.14:7.1 of the Code of Virginia)

§ 1.3. License renewal and reinstatement.

A. Dental renewal fees.

Every person licensed to practice dentistry shall, on or before March 31 of every odd-numbered year, renew the license to practice dentistry and pay a biennial renewal fee of \$75. (§ 54-181.1 of the Code of Virginia)

B. Dental hygiene renewal fees.

Every person licensed to practice dental hygiene by this board shall, on or before March 31 of every odd-numbered year, renew the licensure to practice dental hygiene and pay a biennial renewal fee of \$45. (§ 54-200.16:1 of the Code of Virginia)

C. Delinquent fees.

Any person who does not return the completed form and fee by March 31 of any odd-numbered year shall be required to pay an additional \$25 delinquent fee. The

board shall renew a license when the renewal form is received by the following April 30, along with the completed form, the biennial registration fee, and the delinquent fee. (§§ 54-181.1; 54-200.16:1 of the Code of Virginia)

D. Reinstatement fees and procedures.

The license of any person who does not return the completed renewal form and fees by April 30 of every odd-number year shall automatically expire and become invalid. Upon such expiration, the board shall immediately notify the affected person of the expiration and the reinstatement procedures. Any person whose license has expired for failure to comply with §§ 54-181.1 or 54-200.16:1 of the Code of Virginia, and who wishes to renew such license shall submit to the board a reinstatement form, the application fee, the delinquent fee, and renewal fee. An applicant for reinstatement shall be required to satisfactorily complete the Southern Regional Testing Agency examinations unless such applicant demonstrates that he has maintained continuous ethical, legal and clinical practice during the period of licensure expiration or demonstrate that said lapse was due to factors beyond the applicant's control or was other than voluntary. (§§ 54-181.1; 54-200.16:1 of the Code of Virginia)

E. General anesthesia and parenteral sedation permit renewal fee.

Every person holding a permit shall, on or before March 31 of every odd-numbered year, renew the permit and pay a biennial renewal fee of \$50. (§ 54-163 of the Code of Virginia)

§ 1.4. Other fees.

A. Dental licensure application fees.

The application for a dental license shall be accompanied by a check or money order for \$165, which includes a \$90 application fee and a \$75 initial licensure fee. (§ 54-169 of the Code of Virginia)

B. Dental hygiene licensure application fees.

The application for a dental hygiene license shall be accompanied by a check or money order for \$155, which includes a \$70 application fee and a \$45 initial licensure fee. (§ 54-200.8 of the Code of Virginia)

C. Duplicate wall certificates.

Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of \$10. Duplicate certificates may be issued for any of the following reasons: replacing certificates that have been lost, stolen, misplaced, destroyed or are otherwise irretrievable, recording the new name of a registrant whose name has been changed by court order or by

Proposed Regulations

marriage, or for multiple offices. (§§ 54-163; 54-168 of the Code of Virginia)

D. Duplicate licenses.

Licensees desiring duplicate licenses shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of \$5. Duplicate licenses may be issued for any of the following reasons: maintaining more than one office (notarized photocopy may be used), replacing licenses that have been lost, stolen, misplaced, destroyed or are otherwise irretrievable; and recording the new name of a licensee whose name has been changed by court order or in marriage. (§§ 54-163; 54-175; 54-177; 54-197; 54-200.14 of the Code of Virginia)

E. Out-of-state certification.

Licensees requesting endorsement or certification by this board to the licensing authorities of other states shall pay a fee of \$5 for each endorsement or certification. (§§ 54-163; 54-177; 54-178; 54-200.12; 54-200.13 of the Code of Virginia)

F. Restricted licenses.

Restricted licenses issued in accordance with § 54-175.2 of the Code of Virginia shall be at a fee of \$100. (§ 54-175.2 of the Code of Virginia)

G. Teacher's licenses.

Licenses to teach dentistry and dental hygiene issued in accordance with § 54-175.1 of the Code of Virginia shall be at a fee of \$165 and \$115, respectively. The renewal fee shall be \$75 and \$45, respectively. (§ 54-175.1 of the Code of Virginia)

H. Temporary permits.

Temporary permits issued in accordance with §§ 54-152 (1)(a)(c), 54-152 (2)(b) and 54-152 (2)(c) of the Code of Virginia shall be at a fee of \$50. (§ 54-152 of the Code of Virginia)

I. General anesthesia and parenteral sedation permit.

Permits issued in accordance with §§ 3.1 and 3.2 of these regulations shall be at a fee of \$100. (§§ 54-163; 54-177 of the Code of Virginia)

§ 1.5. Refunds.

No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted. (§§ 54-152; 54-163; 54-169; 54-173; 54-175.1; 54-181.1; 54-200.5; 54-200.8; 54-200.16:1 of the Code of Virginia)

PART II.

ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Education.

A. Dental licensure.

An applicant for dental licensure must:

1. Be a graduate of an approved dental school recognized by the Commission on Dental Accreditation of the American Dental Association and a holder of a Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree; or
2. Be a holder of a degree or certificate issued by a post-doctoral dental program accredited by the Commission on Dental Accreditation of the American Dental Association which satisfies the requirements for specialty-board eligibility. (§ 54-170 of the Code of Virginia)

B. Dental hygiene licensure.

An applicant for dental hygiene licensure must have graduated from or be issued a certificate by an approved school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association. (§ 54-200.9 of the Code of Virginia)

C. Applications.

All applications for any license or permit issued by the board shall include:

1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate.
2. One recently made passport type photograph of the applicant. The photograph must be securely pasted in the space provided on the application.
3. An original grade card issued by the Joint Commission on National Dental Examinations. (§§ 54-169; 54-200.8 of the Code of Virginia)

§ 2.2. Licensure examinations.

A. Dental examinations.

1. All applicants shall have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to making application to this board.
2. For the purpose of § 54-175 of the Code of Virginia, the Southern Regional Testing Agency examination constitutes the board examination for licensure. All persons desiring to practice dentistry in the Commonwealth of Virginia will be required to satisfactorily pass the complete Southern Regional Testing Agency (SRTA) examination in dentistry as a

precondition for licensure, except those persons eligible for licensure pursuant to § 54-173 of the Code of Virginia and § 2.3 A of these regulations. Applicants who successfully completed the Southern Regional Testing Agency examinations five or more years prior to the date of receipt of their applications for licensure by this board will be required to retake the SRTA examinations unless they demonstrate that they have maintained continuous active clinical, ethical and legal practice since passing the SRTA examinations.

3. All applicants will be required to satisfactorily pass an examination on the Virginia dental laws and the regulations of the board. (§§ 54-171; 54-175 of the Code of Virginia)

B. Dental hygiene examinations.

1. All applicants are required to successfully complete the dental hygiene examination of the Joint Commission on National Dental Examination prior to making application to this board of licensure.

2. For the purpose of § 54-200.11 of the Code of Virginia, the Southern Regional Testing Agency examination constitutes the board examination for dental hygiene licensure. All persons desiring to practice dental hygiene in the Commonwealth of Virginia shall be required to successfully complete the Southern Regional Testing Agency examination in dental hygiene as a precondition for licensure, except those persons eligible for licensure pursuant to § 54-200.5 of the Code of Virginia and § 2.3 B of these regulations. Applicants who achieved passing grades in the Southern Regional Testing Agency examination five or more years prior to the date of receipt of their applications for licensure by this board will be required to retake the SRTA examination unless they demonstrate that they have maintained continuous active clinical, ethical and legal practice since passing the SRTA examinations.

3. All applicants will be required to pass an examination on the Virginia dental hygiene laws and the regulations of the board. (§ 54-200.11 of the Code of Virginia)

§ 2.3. Reciprocal licensure.

A. Dental licensure by reciprocity.

Pursuant to § 54-173 of the Code of Virginia, the board shall, upon proper application, grant a license to practice dentistry to any dentist who is engaged in active practice and who holds a current license issued by another state with whom the board has established reciprocity. (§ 54-173 of the Code of Virginia)

B. Dental hygiene licensure by reciprocity.

Pursuant to § 54-200.5 of the Code of Virginia, the board

shall, upon proper application, grant a license to practice dental hygiene to any dental hygienists who is engaged in active practice and who holds a current license issued by another state with whom the board has established reciprocity. (§ 54-200.5 of the Code of Virginia)

§ 2.4. Temporary permits and temporary licenses.

A. Temporary permits shall be issued only for the purpose of allowing dental and dental hygiene practice as limited by §§ 54-152 (1)(a) and (2)(b) of the Code of Virginia until the release of grades of the next licensure examination given in the Commonwealth, after the issuance of the temporary permit.

B. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented the permittee from taking the first examination given immediately after the issuance of the permit. Such permit renewals shall expire seven days after the release of grades of the next examination given.

C. Temporary permits issued pursuant to § 54-152 and teacher's licenses issued pursuant to §§ 54-175.1 (A) and (B) and 54-175.2 (A) of the Code of Virginia may be revoked for any grounds for which the license of a regularly licensed dentist or dental hygienist may be revoked and for any act, acts or actions indicating the inability of the permittee to practice dentistry that is consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia. (§§ 54-152; 54-175.1 (A)(B); 54-175.2 (A) of the Code of Virginia)

PART III.

GENERAL ANESTHESIA, PARENTERAL SEDATION, NITROUS OXIDE INHALATION AND CONSCIOUS SEDATION.

§ 3.1. General anesthesia.

A. Educational requirements.

A dentist may employ or use general anesthesia on an outpatient basis by holding a permit issued by the board upon meeting one of the following educational criteria and being certified by the board:

1. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry" as published by the American Dental Association; or

2. Is a fellow in the American Dental Society of Anesthesiology; or

3. Is board certified or board eligible in any dental specialty which has a minimum of four months

Proposed Regulations

training in anesthesiology as part of the requirements to become board eligible.

B. Challenge requirements.

A dentist who has utilized general anesthesia at any time prior to the adoption of the requirements for the use of general anesthesia and does not meet any of the educational requirements specified in § 3.1 A of these regulations may continue to utilize general anesthesia provided the dentist passes on or before July 1, 1987, a one-time on-site evaluation and inspection of office facilities by qualified individuals designated by the board including a peer and other individuals qualified by education. A dentist shall also be required, at the time of the on-site evaluation, to demonstrate any techniques utilized for general anesthesia.

1. The evaluation team shall require the dentist and the auxiliary personnel to perform an actual demonstration of the handling of the following emergency situations:

- a. Laryngospasm;
- b. Bronchospasm;
- c. Emesis and aspiration of vomitus;
- d. Management of other foreign bodies in the airway;
- e. Angina pectoris;
- f. Myocardial infarction;
- g. Hypotension;
- h. Hypertensive crisis;
- i. Cardiopulmonary resuscitation;
- j. Acute allergic reactions;
- k. Hyperventilation syndrome;
- l. Convulsion of unknown etiology;
- m. Other emergencies.

C. Exemptions.

A dentist who has not met any of the requirements specified in § 3.1 A and B of these regulations may treat patients under general anesthesia in his practice of dentistry if a qualified, certified registered nurse anesthetist, a qualified anesthesiologist, or a dentist who fulfills the specified educational requirements is present and administers and monitors the general anesthetic. (§ 54-163 of the Code of Virginia)

§ 3.2. Parenteral sedation.

A. Automatic qualification.

Dentists qualified to administer general anesthesia may administer parenteral sedation.

B. Educational requirements.

A dentist may administer parenteral sedation upon completion of 60 hours of formal training, including 10 patients in parenteral sedation while enrolled as an

undergraduate dental student in an approved dental school, or while enrolled at an approved post-doctoral university or teaching hospital program.

C. Challenge requirements.

A dentist who has utilized parenteral sedation on or before July 1, 1987, but who has not met the educational requirements may continue to utilize parenteral sedation provided the dentist provides to the board an affidavit certifying that he possesses and maintains functional emergency airway equipment in each dental office wherein the dentist administers parenteral sedation as set out in § 3.4 A, Emergency equipment.

§ 3.3. Nitrous-oxide inhalation conscious sedation.

A. Automatic qualification.

Dentists qualified to administer parenteral sedation and/or general anesthesia may administer nitrous-oxide inhalation conscious sedation.

B. Educational requirements.

A dentist may use nitrous-oxide inhalation conscious sedation on an outpatient basis for dental patients provided that the dentist:

1. Has completed no less than the course of training as described in the American Dental Association's "Guidelines for Teaching and Comprehensive Control of Pain and Anxiety in Dentistry" or its equivalent; or
2. Has completed training equivalent to that described in paragraph 1 of this subsection while a student in a dental school; or

C. Challenge requirement.

A dentist who has utilized nitrous oxide sedation on or before July 1, 1987, but who has not met the educational requirements in § 3.3 B of these regulations may continue to utilize nitrous oxide sedation provided the dentist posts in the office, evidence of training in nitrous-oxide inhalation conscious sedation in the form of a certificate or affidavit. (§ 54-163 of the Code of Virginia)

D. Nitrous oxide equipment.

A dentist who uses nitrous-oxide inhalation conscious sedation shall maintain in the dental facility adequate equipment which prevents the administration of nitrous oxide gaseous mixtures containing less than 25% oxygen concentration, and the ability to supply oxygen with a bag respirator. (§ 54-187 (5)(13) of the Code of Virginia)

§ 3.4. General information.

A. Emergency equipment.

A dentist who administers general anesthesia and parenteral sedation shall maintain the following emergency air-way equipment in the dental facility:

1. Full face mask;
2. Oral or nasopharyngeal airways;
3. Endotracheal tubes for children and/or adults;
4. A laryngoscope with reserve batteries and bulbs;
5. Source of delivery of oxygen under pressure;
6. Mechanical (hand) respirator bag. (§ 54-187 (5)(13) of the Code of Virginia)

B. Posting requirements.

Any dentist who utilizes general anesthesia and/or parenteral sedation and/or nitrous-oxide inhalation conscious sedation shall post a certificate showing satisfactory completion of the requirements of Part III of these regulations as applicable. (§ 54-163 of the Code of Virginia)

§ 3.5. Continued competency.

A. Advanced life support.

Any dentist who administers general anesthesia or parenteral sedation shall maintain current certification in basic and advanced life support provided by a qualified agency approved by the American Heart Association or American Red Cross. (§ 54-163 of the Code of Virginia)

B. Basic life support.

Any dentist who treats a patient while under parenteral sedation or general anesthetic as in § 3.1 C of these regulations shall maintain current certification in basic life support provided by a qualified agency approved by the American Heart Association or American Red Cross unless disqualified by medical affidavit. (§ 54-163 of the Code of Virginia)

§ 3.6. Report of adverse occurrences.

A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or serious unusual incident that occurs in the licensee's dental facility or during the first 24 hours immediately following the patient's departure from the facility following and directly resulting from the administration of general anesthesia, parenteral sedation, or nitrous-oxide conscious sedation. (§ 54-163 of the Code of Virginia)

PART IV. RECORD KEEPING AND REPORTING.

§ 4.1. Records.

A. Laboratory work orders.

Written work order forms and subwork order forms to employ or engage the services of any person, firm or corporation to construct or reproduce or repair, extraorally, prosthetic dentures, bridges or other replacements for a part of a tooth or teeth as required by § 54-147.1 of the Code of Virginia shall include as a minimum the following information:

1. Patient or case number, date, denture base material, make of teeth, mold and shade.
2. Description of lab work and detailed instructions.
3. The signature, license number and address of the dentist and the date the work is to be returned to the dentist. (§ 54-147.2 (2) of the Code of Virginia)

B. Patient records.

A dentist shall maintain patient records for not less than five years from the most recent date of service for purposes of review by the board to include the following:

1. Patient's name and date of treatment;
2. Updated health history;
3. Diagnosis and treatment rendered;
4. List of drugs prescribed, administered, dispensed and the quantity;
5. Radiographs;
6. Fees and charges; and
7. Name of dentist and dental hygienist providing service. (§ 54-147.2 (2) of the Code of Virginia)

NOTE: Practitioners should use discretion in discarding patient records.

§ 4.2. Reporting.

A. Dental students as hygienists.

Prior to utilizing the services of a senior dental student as a dental hygienist as provided in § 54-147 (3) of the Code of Virginia a dentist shall supply the board with the name and address of the student, the school in which the senior student is enrolled, the hours during which the student is expected to be employed as a hygienist, the expected period of employment (June and July, only) and verification that the employing dentist holds faculty appointment. (§§ 54-147 (3); 54-163; 54-167 of the Code of Virginia)

B. Current business address.

Proposed Regulations

Each licensee shall furnish the board at all times with his current business address. All notices required by law or by these regulations to be mailed by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. All changes of address shall be furnished to the board within 30 days of such changes. (§§ 54-177; 54-181.1; 54-200.12; 54-200.16 of the Code of Virginia)

§ 4.3. Unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54-187 (4) of the Code of Virginia:

A. Fraudulently obtaining, attempting to obtain or cooperating with others in obtaining payment for services.

B. Performing services for a patient under terms, or conditions which are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and/or where the patient entered the agreement without fraud or duress.

C. Misrepresenting to a patient and the public the materials or methods and techniques the licensee used or intends to use.

D. Committing any act in violation of the Code of Virginia reasonably related to the practice of dentistry and dental hygiene.

E. Delegating any service or operation which requires the professional competence of a dentist and/or dental hygienist to any person who is not a dentist and/or dental hygienist except as otherwise authorized by these regulations.

F. Signing a statement certifying completion of a dental procedure that has not actually been completed.

G. Knowingly or negligently violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including, but not limited to, current regulations promulgated by the Virginia Department of Health.

H. Permitting or condoning the placement or exposure of dental x-ray film by an unlicensed person, except where the unlicensed person has complied with § 4.5 A 12 of these regulations.

I. Violating any of the regulations regarding general anesthesia, parenteral sedation, and nitrous oxide conscious inhalation or any regulation of the board (§ 54-187 (4) of the Code of Virginia)

J. Failing to respond to a written request by the board for information and records or failing to provide the board with information required by regulation. (§ 54-187 (4) of the Code of Virginia)

§ 4.4. Advertising.

A. Practice limitation.

Any dentist who has a limited practice and who is not a board-eligible or a certified specialist as recognized by the Commission of Dental Accreditation of the American Dental Association shall state in conjunction with the dentist's name that he is a general dentist providing only, i.e., orthodontic services. (§§ 54-163; 54-187 (7) of the Code of Virginia)

B. Fee disclosures:

Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services and products which, to a substantial likelihood will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive and/or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described dental services shall not be deemed to be deceptive or misleading. (§§ 54-163; 54-187 (7) of the Code of Virginia)

C. Discounts:

Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee. (§§ 54-163; 54-187 (7) of the Code of Virginia)

D. Retention of broadcast advertising.

A prerecorded copy of all advertisements on radio or television must be retained for a six-month period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded copies of the advertisement available to the board within five days following a request by the board. (§§ 54-163; 54-187 (7) of the Code of Virginia)

E. Routine dental services.

The purpose of this subsection is to delineate those routine dental services which may be advertised pursuant to § 54-187 (7) of the Code of Virginia and § 4.4 F of these regulations. The definitions as set out in Part I of these regulations are intended to set forth a minimum standard as to what constitutes such services for advertising purposes in order to allow the public to accurately compare the fees charged for a given service and to preclude potentially misleading advertisement of fees for a given service which may be delivered on a superficial or minimum basis. Advertising of fees pursuant to § 4.4 F 3 of these regulations is limited to the following routine dental services:

1. "Examination" — a study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting or caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions. (§§ 54-146; 54-163 of the Code of Virginia)

2. "Diagnosis" — a written opinion of findings in an examination. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

3. "Treatment planning" — a written statement of treatment recommendations following an examination and diagnosis. This statement shall include a written itemized treatment recommendation and written itemized fee statement. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

4. "Radiographs" — shall document type and quantity. (See definitions) (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

5. "Basic full upper and lower denture" — the replacement of all natural dentition with artificial teeth. This replacement includes satisfactory aesthetics. The materials used in these replacements shall be nonirritating in character and meet all the standards set by the National Institute of Health, Bureau of Standards and the Testing Agencies of the American Dental Association for materials to be used in or in contact with the human body. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

6. "Prophylaxis" — the removal of calculus, accretions and stains from exposed surfaces of the teeth and from the gingival sulcus. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

7. "Simple extractions" — a service for the removal of nonimpacted teeth, including necessary x-rays, anesthesia, preoperative and post operative care. (§§ 54-146; 54-163; 54-187 (7) of the Code of Virginia)

8. Other procedures which are determined by the board to be routine dental services are those services set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in the Journal of the American Dental Association (JADA), Volume 104, March 1982, which is hereby adopted and incorporated by reference. (§ 54-187 (7) of the Code of Virginia)

F. The following practices shall constitute false, deceptive or misleading advertising within the meaning of § 54-187 (7) of the Code of Virginia.

1. Publishing an advertisement which contains a material misrepresentation or omission of fact.

2. Publishing an advertisement which contains a

representation or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive.

3. Publishing an advertisement which fails to include the information and disclaimers required by § 4.4 of these regulations. (§ 54-187 (7) of the Code of Virginia)

G. Signage.

Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced and/or a specific geographic locator are permissible so long as the requirements of § 54-186 of the Code of Virginia are complied with.

§ 4.5. Nondelegable duties.

A. Nondentists.

The following duties shall not be delegated to a nondentist:

1. Diagnosis and treatment planning.

2. Performing surgical or cutting procedures on hard or soft tissue.

3. Prescribing drugs, medicaments and work authorizations.

4. Adjusting fixed or removal appliances or restorations in the oral cavity.

5. Making occlusal adjustments in the oral cavity.

6. Performing pulp capping and pulpotomy procedures.

7. Administering local or general anesthetics or parenteral sedation except as provided for in § 54-149 of the Code of Virginia.

8. Condensing and carving amalgam restorations.

9. Placing and contouring silicate cement and composite resin restorations.

10. Administering of nitrous oxide conscious sedation except as provided for in § 54-149 of the Code of Virginia.

11. Placement and fitting of orthodontic arch wire and making ligature adjustments creating active pressure on the teeth.

12. Placing or exposing dental x-ray film unless the unlicensed person has satisfactorily completed a clinical and/or laboratory and didactic course and

Proposed Regulations

examination given by an institution or program approved by the Commission on Dental Accreditation of the American Dental Association and/or the Board of Dentistry on or before July 1, 1987.

13. Taking impressions for any working model except as provided in § 5.4 A 2 of these regulations. (§§ 54-147 (1); 54-200.2; 54-200.4 of the Code of Virginia)

PART V.

SUPERVISION AND UTILIZATION OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS.

§ 5.1. Employment of dental hygienists.

No dentist shall employ or utilize the services of more than two dental hygienists at one and the same time. (§ 54-200.6 of the Code of Virginia)

§ 5.2. Required supervision.

The degree of supervision required to assure that treatment is appropriate and does not jeopardize the systemic or oral health of the patient varies with the nature of the procedure and dental history of the patient. The degree of supervision required shall be determined by the supervising dentist as permitted and limited by these regulations. In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment his patients will receive and which aspects of treatment will be delegated to qualified personnel in accordance with these regulations and the Code of Virginia.

Dental hygienists and assistants shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency and under the supervision and control of the employing dentist or the dentist in charge, or the dentist in charge or control of the governmental agency. The dentist shall in all cases be present and evaluate the patient during the time the patient is in the office except when services are performed under general supervision. Persons acting within the scope of a license issued to them by the board under § 54-175.1 (b) of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54-200.11 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section. (§§ 54-147 (1); 54-152; 54-200.4; 54-200.6; 54-200.7 of the Code of Virginia)

§ 5.3. Dental hygiene teachers.

Persons acting within the scope of a license issued to them by the board under § 54-175.1(B) of the Code of Virginia to teach dental hygiene are exempt from Part V of these regulations. (§§ 54-175; 54-147 (1); 54-152; 54-200.4; 54-200.6; 54-200.7 of the Code of Virginia)

§ 5.4. Dental hygienists.

A. The following duties may be delegated to dental hygienists under direct supervision:

1. Scaling, root planing and polishing natural and restored teeth using hand instruments, rotary instruments, prophy-jets and ultra sonic devices.
2. Taking of working impressions for construction of athletic and fluoride guards. (§§ 54-147 (1); 54-152; 54-172; 54-200.4; 54-200.7 of the Code of Virginia)

B. The following duties may be delegated to dental hygienists under general supervision:

1. Performing on original or clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.
2. Recording a patient's pulse, blood pressure, temperature and medical history. (§§ 54-147 (1); 54-152; 54-172; 54-175; 54-200.2; 54-200.4; 54-200.7 of the Code of Virginia)

§ 5.5. Dental hygienists and dental assistants.

A. The following duties may be delegated to dental hygienists and dental assistants under direct supervision:

1. Application of topical medicinal agents. (aerosol topical anesthesia excluded)
2. Acid etching in those instances where the procedure is reversible.
3. Application of sealants.
4. Serving as a chairside assistant aiding the dentist's treatment by concurrently performing supportive procedures for the dentist.
5. Placement and removal of matrixes for restorations.
6. Placement and removal of rubber dam.
7. Placement and removal of periodontal packs.
8. Polishing natural and restored teeth by means of a rotary rubber cup of brush and appropriate polishing agent.
9. Holding and removing impression material for working models after placement in the patient's mouth by the dentist.
10. Taking nonworking impressions for diagnostic study models.
11. Placing of amalgam in prepared cavities with the carrier to be condensed and carved by the dentist.

Proposed Regulations

12. Placing and removing elastic orthodontic separators.

13. Checking for loose orthodontic bands.

14. Removing arch wires and ligature ties.

15. Placing ligatures to tie in orthodontic arch wire that has been fitted and placed by the dentist, provided that no active pressure is created by the placement of such ligatures.

16. Selecting and prefitting of orthodontic bands for cementation by the dentist.

17. Monitoring of general anesthesia, parenteral sedation and nitrous-oxide inhalation conscious sedation. (No person who is not otherwise licensed by the board may perform these duties unless he has met the requirements of § 4.2 B of these regulations.)

18. Placing and exposing dental x-ray film. (No person who is not otherwise licensed by the board shall place or expose dental x-ray film unless the requirements of § 4.7 A 12 of these regulations have been fulfilled.)

19. Removal of socket dressings.

20. Instructing patients in placement and removal of retainers and appliances after they have been completely fitted and adjusted in the patient's mouth by the dentist.

21. Removal of sutures. (§§ 54-147 (1); 54-152; 54-172; 54-200.2; 54-200.4; 54-200.7 of the Code of Virginia)

§ 5.6. Dental assistants.

The following duty may be delegated to dental assistants under general supervision:

Recording a patient's pulse, blood pressure, temperature and medical history. (§§ 54-147 (1); 54-152; 54-172; 54-175; 54-200.2; 54-200.4; 54-200.7 of the Code of Virginia)

§ 5.7. What does not constitute practice.

Oral health education and preliminary dental screenings in any setting are not considered the practice of dental hygiene and dentistry. (§§ 54-146; 54-147 (1); 54-152; 54-163; 54-200.2; 54-200.4; 54-200.6; 54-200.8 of the Code of Virginia)

PART VI. SEVERABILITY.

§ 6.1. Severability clause.

If any provision of these regulations or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the regulations which can be given effect without the

invalid provisions or application, and to this end the provisions of these regulations are declared severable. (§ 54-163 of the Code of Virginia)

VIRGINIA STATE LIBRARY BOARD

Title of Regulation: VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: April 7, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The Virginia State Library Board proposes to repeal the existing regulations and adopt new regulations governing the reproduction of records by microphotography process. The proposed regulation will provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming public records of permanent value.

VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.

PART I. AUTHORITY.

§ 1.1. These standards are established by the Library Board in accordance with the provisions of Chapter 7, Virginia Public Records Act, § 42.1-82 of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all records that have been appraised as being archival: having administrative, legal, fiscal, or historical value as defined in § 42.1-77 of the Code of Virginia to warrant their permanent preservation. Such determinations are included in the officially approved retention and disposition schedules. When the informational contents of such archival records are to be maintained on microfilm, the silver gelatin camera microfilm produced by source document methods is to be considered the permanent archival security copy. For Computer Output Microfilm, refer to Standards For Computer Output Microfilm (COM) For Archival Retention. Thermally processed or TEP film shall not be used, unless a wet processed silver-gelatin copy meeting this standard is generated. The camera microfilm shall not be used for reference purposes. Whenever the original record is recommended for disposal, authorization will be given after the camera microfilm has been inspected, approved and accessioned by the Archives and Records Division,

Proposed Regulations

Virginia State Library.

PART III. STANDARDS.

§ 3.1. The microfilming, processing and storage of archival records shall comply with the following standards approved by the American National Standards Institute (ANSI), Association for Information and Image Management (AIIM), and the federal government.

ANSI:

PH 1.25 - 1984

Photography (Film) - Safety Photographic Film.

PH 1.28 - 1984

Specifications for Photographic Film for Archival Records, Silver Gelatin Type on Cellulose - Ester Base.

PH 1.41 - 1984

Specifications for Photographic Film for Archival Records Silver Gelatin Type on Polyester Base.

PH 1.43 - 1983

Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983

Photography (Film) : Micrographic Sheet and Roll Film Dimensions.

PH 1.53 - 1984

Requirements for Photographic Filing Enclosures for Storing Processed Photographic Films, Plates, and Papers.

PH 2.19 - 1976

Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985

Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates and Papers.

ANSI/NMA MS19-1978

Recommended Practice for Identification of Microforms.

ANSI/NMA MS23-1983

Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver Gelatin Microfilm of Documents (ANSI/NMA MS23-1983).

ANSI/ISO 3334-1979

Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

Federal Standards No. 125 D (January 24, 1977)

Basic United States Government Micrographic Standards

and Specifications (6th edition, January, 1983)

PART IV. MICROFILM STOCK.

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-based archival record film as specified in American National Standards Institute (ANSI) Photography (film) Specifications for Safety Photographic Film, PH 1.25 - 1984; Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Cellulose-Ester Base, PH 1.28 - 1984; Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Polyester Base, PH 1.41 - 1984.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a micrographic program for filming archival records shall conform to standards set down in ANSI/NMA MS23-1983 Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail shown on the originals. Microimages of the records shall be arranged, identified and indexed so that any individual document or component of the records can be located.

§ 5.3. The background density on negative appearing camera microfilm of original documents shall be between 0.9 and 1.2. Background density on positive appearing camera microfilm shall be no higher than 0.35. The base-plus-fog density of unexposed, processed, clear-base film must not exceed 0.10. When a tinted base film is used, the density will increase by 0.1 or 0.2, which must be added to the 0.10 value. Both are measured by a densitometer calibrated with a step tablet exposed and developed to the specifications of the ANSI Standards PH 2.19 Conditions for Diffuse and Doubly Diffuse Transmission Measurements. In certain instances, some poor contrast documents may require lower densities in order to make the entire image legible and reproducible as stated in ANSI/NMA MS23 - 1983. A system of inspection and quality control to ensure compliance with this standard shall be established and consistently maintained in conformance with MS23 Practice for Operational Procedures/Inspection and Quality Control of First-Generation, Silver-Gelatin Microfilm of Documents ANSI/NMA MS23 - 1983.

§ 5.4. A minimum resolution of 90 lines per millimeter shall be obtained regardless of reduction ratio used or the type of camera used and the 4.0 pattern shall be resolved. This shall be determined by the line count and direction method using the National Bureau of Standards Standard Reference Material 1010a (ANSI and ISO Test Chart No. 2) for planetary cameras and the AIIM MS-113 Test Chart

Proposed Regulations

for rotary cameras. The test charts are composed of two groups of five parallel line pairs, the line pairs in the two groups being oriented perpendicular to one another, and each pattern is numbered and progressively reduced. Five vertical and five horizontal line pairs shall be clearly defined in both directions. The resolution test chart shall be photographed at the beginning and at the end of each reel of camera microfilm at least three times in succession.

§ 5.5. Microform identification declaration certificates in conformance with ANSI/NMA MS19 Recommended Practice for Identification of Microforms shall be exposed at the beginning and end of each reel of microfilm. These certificates provide documentation which ensures that the microfilm copy can be substituted in place of the original document.

PART VI. PROCESSING.

§ 6.1. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8 - 1985 Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Film, Plates, and Paper.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm shall have a concentration of greater than zero but less than 0.7 or less micrograms per square centimeter in a clear film area. Film processed in-house shall be tested and certified at least once each month or as deemed necessary by the State Library. Processing services performed off-site shall include provisions requiring that the methylene blue test shall be performed either on each individually processed batch of film, every eight hours of continuous processor operation, or at the end of any run of eight hours or less. Records documenting the testing shall be maintained.

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the Archives and Records Division, Virginia State Library. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, processor used, and the signature of the person who did the test.

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, must be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other

contaminants shall not be allowed in microfilming areas.

§ 7.3. The camera microfilm shall be handled only during the inspection procedure and when generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for the production of an intermediate master.

§ 7.4. Splicing is not permitted, except at the beginning of the reel. An unexposed area of film shall be used between the splice and the beginning titling targets. Ultrasonic splicing is recommended for polyester film.

PART VIII. STORAGE.

§ 8.1. Camera microfilm shall be verified for completeness and accuracy, then transferred promptly to the Archives and Records Division, Virginia State Library for storage. Each film container shall be labeled with the following: office of origin, records series, reel number, inclusive information. Camera microfilm shall be stored according to ANSI PH 1.43 - 1983 Photography (Film) Storage of Processed Safety Film and ANSI PH 1.53 - 1985 Requirements for Photographic Filing Enclosures for Storing Processed Photographic Films, Plates, and Papers.

§ 8.2. At approximately two year intervals, a 1% sample of randomly selected reels of microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. Follow the guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes.

* * * * *

Title of Regulation: VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: April 7, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The Virginia State Library Board proposes to repeal the existing regulations and adopt new regulations governing the recording of deeds and other writings by a procedural microphotographic process. The proposed regulation will provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming deeds and other writings by a procedural

Proposed Regulations

microphotographic process.

VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.

PART I. AUTHORITY.

§ 1.1. These standards are established by the Library Board in accordance with the provision of Chapter 7, Virginia Public Records Act, § 42.1-82 of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all records that are being recorded on microfilm in a procedural microphotographic process as stated in §§ 17-59, 17-60, 17-60.1, 17-68, 17-70, 17-70.1 of the Code of Virginia. When the informational contents of such records are to be maintained on microfilm, the silver gelatin camera microfilm produced by source document methods is to be considered the permanent archival security copy. The camera microfilm shall not be used for reference purposes. The minimum level of indexing required with a procedural microphotographic recording system for deeds, in addition to statutory indexing requirements, is the inclusion in the index of a column referencing the deed book and page number of the original instrument affected by a subsequently recorded document, and a column for a brief description of the property affected. Advice and assistance in the implementation and operation of a procedural microfilm recording system will be provided by the staff of the Archives and Records Division, Virginia State Library in accordance with the Public Records Act, § 42.1-83 of the Code of Virginia.

PART III. STANDARDS.

§ 3.1. The microfilming, processing and storage of archival records shall comply with the following standards approved by the American National Standards Institute (ANSI), Association for Information and Image Management (AIIM), and the federal government.

ANSI:

PH 1.25 - 1984

Photography (Film) : Safety Photographic Film.

PH 1.28 - 1984

Specifications for Photographic Film for Archival Records, Silver Gelatin Type on Cellulose - Ester Base.

PH 1.41 - 1984

Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Polyester Base.

PH 1.43 - 1983

Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983

Photography (Film) : Micrographic Sheet and Roll Film Dimensions.

PH 1.53 - 1984

Requirements for Filing Enclosures for Storing Processed Photographic Films, Plates, and Papers.

PH 2.19 - 1976

Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985

Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.

ANSI/NMA MS8-1979

Document Mark (BLIP) Used in Image Mark Retrieval Systems.

ANSI/NMA MS19-1978

Recommended Practice for Identification of Microforms.

ANSI/NMA MS23-1983

Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver Gelatin Microfilm of Documents.

ANSI/ISO 3334-1979

Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction.

Federal standards No. 125 D (January 24, 1977)

Basic United States Government Micrographic Standards and Specifications (6th edition, January, 1983)

PART IV. MICROFILMING STOCK.

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-based archival record film as specified in American National Standards Institute (ANSI) Photographic (film) Safety Photographic Film, PH 1.25 : 1984; Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Cellulose-Ester Base, PH 1.28 - 1984; Specifications for Photographic Film For Archival Records, Silver-Gelatin Type on Polyester Base, PH 1.41 - 1984.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a procedural microphotographic recording system

shall conform to standards set down in ANSI/NMA MS23 - 1983 Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail shown in the originals. Microimages of the records shall be arranged so that each numbered original page is filmed in position 1B (comic mode) and coded for image count retrieval with a document mark complying with ANSI/NMA MS8 Document Mark (BLIP) used in Image Mark Retrieval Systems.

§ 5.3. The background density on negative appearing camera microfilm of original documents shall be between 0.9 and 1.2. Background density on positive appearing camera microfilm shall be no higher than 0.35. The Base-Plus-fog density of unexposed, processed, clear-base film shall not exceed 0.10. When a tinted base film is used, the density will increase by 0.1 or 0.2, which shall be added to the 0.10 value. Both are measured by a densitometer calibrated with a step tablet exposed and developed to the specification of the ANSI Standard Ph 2.19 Conditions for Diffuse and Doubly Diffuse Transmission Measurements. In certain instances, some poor contrast documents may require lower densities in order to make the entire image legible and reproducible as stated in ANSI/NMA MS23 - 1983. A system of inspection and quality control to ensure compliance with this standard shall be established and consistently maintained in conformance with ANSI/NMA MS23 Practice for Operational Procedures/Inspection and Quality Control of First-Generation, Silver-Gelatin Microfilm of Documents.

§ 5.4. A minimum resolution of 120 lines per millimeter shall be obtained regardless of reduction ratio used or the type of camera used and the 5.0 pattern must be resolved. This shall be determined by the line count and direction method using the National Bureau of Standards Standard Reference Material 1010a (ANSI and ISO Test Chart No. 2) for planetary cameras and the AIIM MS-113 Test Chart for rotary cameras. The test charts are composed of two groups of five parallel line pairs, the line pairs in the two groups being oriented perpendicular to one another, and each pattern is numbered and progressively reduced. Five vertical and five horizontal line pairs shall be clearly defined in both directions. The resolution chart shall be photographed at the beginning and at the end of each reel or camera microfilm at least three times in succession.

§ 5.5. Microform identification declaration certificates in conformance with ANSI/NMA MS19 Recommended Practice for Identification of Microforms shall be exposed at the beginning and end of each reel or microfilm. These certificates provide documentation which ensures that the microfilm copy can be substituted in place of the original document.

PART VI. PROCESSING.

§ 6.1. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8 - 1985 Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm must have a concentration of greater than zero but less than 0.7 or less micrograms per square centimeter in a clear film area. Film processed in-house shall be tested and certified at least once each month or as deemed necessary by the State Library. Processing services performed off-site shall include provisions requiring that the methylene blue test shall be performed either on each individually processed batch of film, every eight hours of continuous processor operation, or at the end of any run of eight hours or less. Records documenting the testing shall be maintained.

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the Archives and Records Division, Virginia State Library. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, processor used and the signature of the person who did the test.

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, shall be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

§ 7.3. The camera microfilm shall be handled only during the inspection procedure and when generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for the production of an intermediate master. All distribution copies will be generated from either the second camera microfilm or from the intermediate master retained by the clerk of the circuit court.

§ 7.4. When possible, ultrasonic splicing shall be used on the camera microfilm. The individual film sequence shall be discarded when defects obliterating or obscuring information are noted and the entire sequence of original documents will be refiled. Splicing between daily sequences shall not be done.

Proposed Regulations

PART VIII. STORAGE.

§ 8.1. Camera microfilm shall be verified for completeness and accuracy, then transferred promptly to the Archives and Records Division, Virginia State Library, for storage. Each film container shall be labeled with the following: office of origin, records series, reel number, inclusive information. Camera microfilm shall be stored according to ANSI PH 1.43 - 1983 Photographic (Film) Storage of Processed Safety Film and ANSI PH 1.53 Requirements for Filing Enclosures for Storing Processed Photographic Films, Plates, and Papers.

§ 8.2. At approximately two year intervals, a 1% sample of randomly selected reels of microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. Follow the guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes.

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Title of Regulation: VR 440-01-137.3. Minimum Standards for Instruments Recorded by a Microphotographic Process.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: April 7, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

Minimum Standards for Instruments Recorded by a Microphotographic Process applies only to instruments recorded by a microphotographic process. The standard is being repealed by the State Library Board because of the adoption of Standards for Recorded Instruments, VR 440-01-137.7, which applies to all instruments submitted for recordation.

* * * * *

Title of Regulation: VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: April 7, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

Sections 17-47.4 and 42.1-82 of the Code of Virginia

provide the statutory basis for promulgation of regulations governing the microfilming of ended law, chancery, and criminal cases and the reproduction of records by microphotography. The Virginia State Library Board proposes to repeal existing regulations and adopt new regulations that will provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law, chancery, and criminal cases.

VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Case by the Clerks of the Circuit Courts Prior to Disposition.

PART I. AUTHORITY.

§ 1.1. These standards are established by The Library Board in accordance with the provisions of Chapter 7, Virginia Public Records Act, § 42.1-82 of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all ended records, papers, or documents pertaining to law, chancery, and criminal cases which have been ended for a period of three years or longer as stated in § 17-47.4 of the Code of Virginia. When the informational contents of such records are to be maintained on microfilm, the silver gelatin camera microfilm produced by source document methods is to be considered the permanent archival security copy. Thermally processed or TEP film shall not be used, unless a wet processed silver gelatin copy meeting this standard is generated. The camera microfilm shall not be used for reference purposes. Whenever the original record is recommended for disposal, authorization will be given after the camera microfilm has been inspected, approved and accessioned by the Archives and Records Division, Virginia State Library. All documents in the ended case files should be microfilmed in the sequence established by the office from which the records originated. The preservation of original document order is essential to ensure that the microform is an adequate substitute for the original document and is admissible as evidence. Recommendation to destroy the original records will be provided after the microfilm of the case files is accessioned, examined and approved by the staff of the Archives and Records Division, Virginia State Library. Advice and assistance in the implementation and operation of the disposal microfilm system will be provided by the staff of the Archives Division, Virginia State Library, in accordance with the Public Records Act, § 42.1-83 of the Code of Virginia.

PART III. STANDARDS.

§ 3.1. The microfilming, processing and storage of archival records shall comply with the following standards

approved by the American National Standards Institute (ANSI), Association for Information and Image Management (AIIM), and the federal government.

ANSI:

PH 1.25 - 1984
Photography (Film) - Safety Photographic Film.

PH 1.28 - 1984
Specifications for Photographic Film for Archival Records, Silver Gelatin Type on Cellulose-Ester Base.

PH 1.41 - 1984
Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Polyester Base.

PH 1.43 - 1983
Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983
Photography (Film) - Micrographic Sheet and Roll Film Dimensions.

PH 1.53 - 1984
Requirements for Filming Enclosures for Storing Processed Photographic Films, Plates, and Papers.

PH 2.19 - 1976
Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985
Methylene Blue Method for Measuring Thiosulfate and Silver Desitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.

ANSI/NMA MS19-1978
Recommended Practice for Identification of Microforms.

ANSI/NMA MS23-1983
Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver Gelatin Microfilm of Documents.

ANSI/ISO 3334-1979
International Standard Microcopying: ISO Test Chart No. 2: Description and Use in Photographic Documentary Reproduction, ANSI/ISO 3334-1979.

Federal Standards No. 125 D (January 24, 1977)

Basic United States Government Micrographic Standards and Specifications (6th edition, January, 1983)

PART IV. MICROFILM STOCK.

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of

archival records shall be safety-based archival record film as specified in American National Standards Institute (ANSI) Photography (film) Safety Photographic Film, PH 1.25 - 1984; Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Cellulose-Ester Base, PH 1.28 - 1984; Specifications for Photographic Film For Archival Records, Silver-Gelatin Type on Polyester base, PH 1.41 - 1984.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a micrographic program for filming archival records shall conform to standards set down in ANSI/NMA MS23 - 1983 Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail shown on the originals. Microimages of the records shall be arranged, identified and indexed so that any individual document or component of the records can be located.

§ 5.3. The background density on negative appearing camera microfilm of original documents shall be between 0.9 and 1.2. Background density on positive appearing camera microfilm shall be no higher than 0.35. The base-plus-fog density of unexposed, processed, clear-base film must not exceed 0.10. When a tinted base film is used, the density will increase by 0.1 or 0.2, which must be added to the 0.10 value. Both are measured by a densitometer calibrated with a step tablet exposed and developed to the specification of the ANSI Standards PH 2.19 Conditions for Diffuse and Doubly Diffuse Transmission Measurements. In certain instances, some poor contrast documents may require lower densities in order to make the entire image legible and reproducible as stated in ANSI/NMA MS-23, 1983. A system of inspection and quality control to ensure compliance with this standard must be established and consistently maintained in conformance with MS23 Practice for Operational Procedures/Inspection and Quality Control of First-Generation, Silver-Gelatin Microfilm of Documents ANSI/NMA23 - 1983.

§ 5.4. A minimum resolution of 90 lines per millimeter shall be obtained regardless of reduction ratio used or the type of camera used and the 4.0 pattern must be resolved. This shall be determined by the line count and direction method using the National Bureau of Standards Standard Reference Material 1010a (ANSI and ISO Test Chart No. 2) for planetary cameras and the AIIM MS - 113 Test Chart for rotary cameras. The test charts are composed of two groups of five parallel line pairs, the line pairs in the two groups being oriented perpendicular to one another and each pattern is numbered and progressively reduced. Five vertical and five horizontal line pairs shall be clearly

Proposed Regulations

defined in both directions. The resolution test chart shall be photographed at the beginning and at the end of each reel of camera microfilm at least three times in succession.

§ 5.5. Microform identification declaration certificates in conformance with ANSI/NMA MS19 Recommended Practice for Identification of Microforms shall be exposed at the beginning and end of each reel of microfilm. These certificates provide documentation which ensures that the microfilm copy can be substituted in place of the original document.

§ 5.6. A microfilm copy of relevant indexes and finding aids shall be deposited in the archives when microfilmed. Unitized microform storage and retrieval systems that require supplemental indexing techniques should provide on the archives camera film the access code structure used for retrieval in the system.

PART VI. PROCESSING.

§ 6.1. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8 - 1985 Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm must have a concentration of greater than zero but less than 0.7 or less micrograms per square centimeter in a clear film area. Film processed in-house shall be tested and certified at least once per month or as deemed necessary by the State Library. Processing services performed off-site shall include provisions requiring that the methylene blue test shall be performed either on each individually processed batch of film, every eight hours of continuous processor operation, or at the end of any run of eight hours or less. Records documenting the testing shall be maintained.

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the Archives and Records Division, Virginia State Library. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, processor used, and the signature of the person who did the test.

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, must be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

§ 7.3. The camera microfilm shall be handled only during the inspection procedure and when generating an intermediate master. In systems generating two camera microfilms, one shall be designated as the archival camera microfilm and shall not be used for duplication, loaded into a cartridge or inserted in a viewer. In systems generating a single camera microfilm, the film shall be used only for the production of an intermediate master.

§ 7.4. If an error is detected in which any information is obscured, the entire defective case file must be rephotographed and spliced at the beginning of the reel. An exposed area of film must be used between the splice and the beginning title targets. Ultrasonic splicing is recommended for polyester film.

PART VIII. STORAGE.

§ 8.1. Camera microfilm shall be verified for completeness and accuracy, then transferred promptly to the Archives and Records Division, Virginia State Library for storage. Each film container shall be labeled with the following: office of origin, records series, reel number, inclusive information. Camera microfilm shall be stored according to ANSI PH 1.43 - 1983 Photography (Film) Storage of Processed Safety Film and ANSI PH 1.53 Requirements for Filming Enclosures for Storing Processed Photographic Films, Plates, and Papers.

§ 8.2. At approximately two year intervals, a 1% sample of randomly selected reels of microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. Follow the guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes.

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Title of Regulation: VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Public Hearing Date: April 7, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The Virginia State Library proposes to repeal the existing regulations and adopt new regulations governing the reproduction of public records by any microphotography process. The proposed regulation

will provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated of public records of permanent value.

VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.

PART I. AUTHORITY.

These standards are established by the Library Board in accordance with the provisions of Chapter 7, Virginia Public Records Act, § 42.1-82 of the Code of Virginia.

PART II. SCOPE.

§ 2.1. These standards apply to all records generated on computer output microfilm (COM) that have been appraised as archival, having administrative, legal, fiscal or historical value as defined in § 42.1-77 of the Code of Virginia to warrant their permanent preservation. Such determinations are included in the officially approved retention and disposition schedules. When such archival records are to be maintained on microfilm, the silver halide camera microfilm is to be considered the permanent archival security copy. Thermally processed film shall not be used unless a wet processed silver-gelatin microfilm copy is generated and preserved as the archival camera microfilm. The camera microfilm shall not be used for reference purposes and shall be inspected, approved and accessioned by the Archives and Records Division, Virginia State Library.

PART III. STANDARDS.

§ 3.1. Permanent records generated on COM shall comply with the following standards approved by the Association for Information and Image Management:

ANSI:

PH 1.25 - 1984
Photography (Film) - Safety Photographic Film.

PH 1.28 - 1984
Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Cellulose-Ester Base.

PH 1.41 - 1983
Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Polyester Base.

PH 1.43 - 1983
Photography (Film) Storage of Processed Safety Film.

PH 1.51 - 1983
Photograph (Film) - Micrographic Sheet and Roll Film

Dimensions.

PH 1.53 - 1984
Requirements for Filming Enclosures for Storing Processed Photographic Films, Plates, and Papers.

PH 2.19 - 1976
Conditions for Diffuse and Doubly Diffuse Transmission Measurements.

PH 4.8 - 1985
Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.

NMA/MS-1 1980
Practice for Operational Practices/Inspection and Quality Control for Alphanumeric Computer Output Microforms.

ANSI/NMA MS2 - 1978
Format and Coding for Computer Output Microfilm.

ANSI/NMA MS19 - 1978
Recommended Practice for Identification of Microforms.

ANSI/NMA MS23 - 1983
Practice for Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin Microfilm of Documents.

PART IV. MICROFILM STOCK.

§ 4.1. The film stock used to make permanent archival security photographic or microphotographic copies of archival records shall be safety-base permanent record film as specified in American National Standards Institute (ANSI) Photography (film) Safety Photographic Film, PH 1.25 - 1984; Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Cellulose-Ester Base PH 1.28 - 1981; Specifications for Photographic Film for Archival Records, Silver-Gelatin Type on Polyester Base, PH 1.41 - 1981.

PART V. MICROFILMING PROCEDURES.

§ 5.1. Procedures to be followed in establishing and operating a COM program shall conform to standards set down in ANSI/NMA MS1 - 1980 Practice for Operational Practices/Inspection and Quality Control for Alphanumeric Computer-output Microfilm.

§ 5.2. Microimages, including the generation intended for use, shall contain all the significant record detail of the data base, and shall be easily read and reproduced. Microimages of the records shall be arranged, identified and indexed so that any component of the records can be located with reasonable ease.

Proposed Regulations

§ 5.3. The background density on negative appearing camera microfilm shall exceed 1.8. Background density on positive appearing camera microfilm shall be no greater than 0.35. The Base-Plus-fog density of unexposed, processed, clear-base film shall not exceed 0.10. When a tinted base film is used, the density will increase by 0.1 or 0.2, which shall be added to the 0.10 value. Both are measured by a densitometer calibrated with a step tablet exposed and developed to the specifications of the National Bureau of Standards Conditions for Diffuse and Doubly Diffuse Transmission Measurements PH 2.19 - 1976.

§ 5.4. Each microfilm shall have eye readable titling. This titling shall include the office of origin, record series inclusive information, date of filming and serial numbering of the microforms.

PART VI. PROCESSING.

§ 6.1. Processing must be either conventional or full reversal, utilizing a developer and fixer. Processors shall be certified by the manufacturer as capable of producing archival quality processed film as required by ANSI PH 4.8 - 1985 Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.

§ 6.2. Certification for archival quality processing shall be based upon the methylene blue test analysis. Processed microfilm must have an optimum concentration of greater than zero but less than 0.7 or less micrograms per square centimeter in a clear film area. Film processed in-house shall be tested and certified at least once each month. Processing services performed off-site shall include a provision requiring that the methylene blue test shall be performed either on each individually processed batch of film every eight hours of continuous processor operation, or at the end of any run of eight hours or less. Records documenting the testing shall be maintained.

§ 6.3. A certificate documenting that the microfilm passes the methylene blue test shall be sent to the Archives and Records Division, Virginia State Library. The certificate shall contain the name of the agency whose film was processed, the date of processing, the date the methylene blue test was performed, the test results, processor used, and the signature of the person who did the test.

PART VII. HANDLING AND INSPECTION.

§ 7.1. The total microfilming system shall be evaluated to ensure that microimages conforming to the standards are produced. The final reproduction, whether film or hard copy print from the film, must be retrievable, readable and reproducible.

§ 7.2. Clean, lint free, white cotton or nylon gloves shall be worn when handling the film. Food, smoking and other contaminants shall not be allowed in microfilming areas.

PART VIII. STORAGE.

§ 8.1. The computer output microfilm shall be verified for completeness and accuracy, then transferred promptly to the Archives and Records Division, Virginia State Library for storage. Each microform shall be placed in enclosures which are free of acids and peroxides, meeting ANSI PH 1.53, Requirements for Filming Enclosures for Storing Processed Photographic Films, Plates, and Papers. Adequate descriptive material shall be provided with the film to facilitate accessioning and retrieval. Camera microfilm shall be stored according to ANSI PH 1.43 - 1983.

§ 8.2. At approximately two year intervals, a 1% sample of randomly selected microfilm in storage shall be inspected. For each biennial inspection, a different lot sample will be chosen allowing some overlapping of inspection to note any changes in previously inspected samples. The guidelines in the National Bureau of Standards Handbook 96 Inspection of Processed Photographic Record Film for Aging Blemishes shall be followed.

VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Statutory Authority: § 54-376 of the Code of Virginia.

Public Hearing Date: April 16, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

These regulations provide the standards for the practice of optometry in Virginia; state the requirements for candidates for examination and licensure as optometrists; and govern the board in the performance of its duties. The proposals constitute a general revision of existing regulations and considerably simplify and shorten them. Because of the number of changes involved, the board intends to repeal the existing regulations and replace them with the proposed version on its adoption.

Among other provisions, the proposals add a prohibition on the use of diagnostic drugs without board certification to use them; replace seven regulations on advertising-and-disclosure requirements with a single prohibition against advertising that is false, misleading, or deceptive; and clarify the criteria for approving continuing education courses necessary for license renewal.

PART I. GENERAL PROVISIONS.

§ 1.1. Public participation guidelines.

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceedings," the subject of which is proposed or existing regulations.
3. Final regulation adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may have his name added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation; in the formation or promulgation of regulations. Those on the list will be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

D. Information proceedings of public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

§ 1.2. Applicants. (§§ 54-376(3) and 54-382 of the Code of Virginia)

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the registrar of the school provide an official transcript to the board;
2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, one recent passport-type photograph of himself, not less than 2 1/2 by 2 1/2 inches in size;
3. Submit an official report from the National Board of Examiners in Optometry of the scores received on Parts I and II (A) and (B) of the examination of the National Board;
4. Submit the prescribed examination fee;

B. If an applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If he withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded.

§ 1.3. Fees. (§ 54-396 of the Code of Virginia)

The following fees are required:

Examination fee	\$200.
Examination fee, certification to use diagnostic pharmaceutical agents	\$ 50.

Proposed Regulations

Licensure fee, (renewed biennially)	\$200.
Late fee	\$ 30.
Reinstatement fee	\$200.
Administrative fee	\$ 25.

PART II. EXAMINATIONS.

§ 2.1. Examinations. (§§ 54-380 and 54-393 of the Code of Virginia)

A. For the purpose of § 54-380 of the Code of Virginia, the board adopts Parts I and II (A) and (B) of the examination of the National Board of Examiners as its written examination for licensure. In addition, upon receiving a passing score on Parts I and II (A) and (B) of the examination of the National Board of Examiners in Optometry, an applicant must successfully complete a practical examination administered by the Virginia Board of Optometry.

B. A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. Otherwise, the full examination shall be retaken.

PART III. UNPROFESSIONAL CONDUCT.

§ 3.1. Unprofessional conduct. (§§ 54-388 (A)(2)(1) and 54-396(9) of the Code of Virginia)

It shall be deemed unprofessional conduct, punishable by § 54-388 of the Code of Virginia, for any licensed optometrist in the Commonwealth to:

A. Fail to use in connection with his name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."

B. Practice optometry under a name other than his own, except to the extent authorized by § 4.1, "Professional designations."

C. Fail to maintain records on each patient for a period of five years from the date of the service rendered. Such records shall include, but not be limited to: all the examinations made of the patient; the results of such examinations; and all treatments or procedures performed on, all materials dispensed to, and all prescriptions written for, the patient.

D. Fail to include the following information on a

prescription for ophthalmic goods:

1. The printed name of the optometrist and any professional designations;
2. The address and telephone number at which the patient's records are maintained, and the optometrist can be reached for consultation;
3. The name of the patient;
4. The signature of the optometrist;
5. The date of the examination and, if appropriate, expiration date prescription;
6. Any special instructions.

E. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.

F. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.

G. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

H. Administer any diagnostic pharmaceutical agent, specified in § 54-386.2 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

I. Violate any provision of these regulations pertaining to professional designations.

PART IV. PROFESSIONAL DESIGNATIONS.

§ 4.1. Professional designations. (§ 54-376(2) of the Code of Virginia)

A. An optometrist may practice in an office that uses any of the following professional designations, provided that the name of at least one licensed optometrist, associated with the office appears in conjunction with and advertisement or other use of that description:

1. The full name of the optometrist as it appears on his license and renewal certificate; or
2. The name of an optometrist who employs him and practices in the same office; or

3. A partnership name composed of some or all names of optometrists practicing in the same office; or

4. A fictitious name, if the conditions set forth in subsection B of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a fictitious name for the optometric office in which they conduct their practices, provided the following conditions are met:

1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.

2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.

3. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the following:

(a) The name of at least one licensed optometrist associated with the optometric office who shall, in conjunction with the licensed optometrists referred to in paragraph 1 of this subsection, assume responsibility for the advertisement;

(b) One of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry" following the optometrist's name; and

(c) Lettering in which the name of the optometrist appears of at least half the size of the lettering in which the fictitious name appears.

4. No fictitious name may be used that does not contain the word "optometry" or the word "vision" or reasonably recognizable derivatives thereof.

5. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.

6. The names of all optometrists who practice under the fictitious name shall be maintained in the records of the optometric office for five years following their departure from the practice.

7. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of

the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist shall be placed in the record of the patient.

8. The name of the licensed optometrist providing care shall appear on the billing invoices, and on the receipts given to patients.

9. No fictitious name may be used which contains the name of an inactive, retired, removed, or deceased optometrist, except that for a period of no more than one year from the date of succession to a practice, an optometrist may list the name of the inactive, retired, removed, or deceased optometrist, so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

PART V. RENEWAL OF LICENSURE; REINSTATEMENT.

§ 5.1. Renewal fees. (§ 54-394 of the Code of Virginia)

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every even-numbered year, pay to the executive director of the board the prescribed biennial licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has his current address. All notices required by law or by these rules and regulations, are to be mailed to any such licensee and shall be deemed to be validly tendered when mailed to the address given.

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of his license. The license of every person who does not return the completed form and fee by October 31 of the renewal year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that he has satisfied requirements for continuing education during the lapsed period; and that he has paid the prescribed late fees, all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee.

D. The board, in its discretion, may require an applicant who cannot satisfy the requirement of § 5.1 C, to pass Parts I and II(A) and (B) of the examination of the National Board of Examiners in Optometry or the state practical examination, or both.

PART VI. CONTINUING EDUCATION.

§ 6.1. Continuing education. (§ 54-394.1 of the Code of

Proposed Regulations

Virginia)

A. Each license renewal shall be conditioned upon submission of evidence to the board of 24 hours of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A of this section, no later than the last day of each license period.

C. The board will review courses for acceptability for purposes of continuing education requirements if the following information is provided:

1. The title of the course;
2. The sponsoring organization;
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. A brief outline of the course's content;
6. The length of the course in clock hours; and
7. The method of certification of attendance.

D. The titles of all courses approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient. Courses excluded by the board shall include:

1. Courses which are primarily designed to promote the sale of specific instruments or products; and
2. Courses offering instruction on augmenting income.

E. When the biennial license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. In the event such form with proper substantiation is not filed by October 31, the executive director of the board shall, by certified mail, notify the licensee that his license has lapsed. The board may reinstate the license upon showing of disability or undue hardship, or, upon showing that the licensee has complied with the requirements of subsection B of this section.

PART VII. SEVERABILITY.

§ 8.1. Severability clause.

Contained herein are the regulations of the Virginia Board of Optometry. These regulations repeal and supersede all other regulations adopted, promulgated, revised, or amended by the board.

If any provision of these regulations or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the regulations which can be given effect without the invalid provisions or applications, and to this end the provisions of the regulations are declared severable.

VIRGINIA BOARD OF VETERINARY MEDICINE

Title of Regulation: VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.

Statutory Authority: § 54-784.03(13) of the Code of Virginia.

Public Hearing Date: April 8, 1986 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

These regulations provide the standards for the practice of veterinary medicine and surgery in Virginia and establish the requirements for candidates for licensure as veterinarians and certification as animal technicians. The proposals constitute a general revision of existing regulations. Because of the number of changes involved, the board intends to repeal the existing regulations and replace them with the proposed version on its adoption.

In general, the proposal gives the regulations added ★ flexibility to cover the changing nature of veterinary practice. They would:

1. Reduce the cost of animal facilities to the limited-service practitioner;
2. Remove prohibitions on certain business practices and simply make it unprofessional conduct to practice veterinary medicine when a nonlicensed person has the right to control the veterinarian's professional judgment;
3. Consolidate a number of rules on examination and qualifications of applicants into a few rules easier to understand, and clarify and standardize waiver provisions for out-of-state veterinarians and animal technicians who seek to practice in Virginia.

VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the

context clearly indicates otherwise:

"Animal facility" or "veterinary facility" means any fixed or mobile establishment, veterinary hospital, animal hospital or premises wherein or whereon or out of which veterinary medicine is practiced.

"Animal technician" means a certified animal technician as defined in § 54-786.3 of the Code of Virginia.

"Board" means the Virginia Board of Veterinary Medicine.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of Article 6.1, Chapter 15.1, Title 54 of the Code of Virginia.

"Practitioner" means a veterinarian.

"Preceptorship" or "clerkship" means a formal arrangement between a college of veterinary medicine approved by the board and a veterinarian licensed by the board, in which a veterinary medical student in his final year, enrolled in such college, obtains practical training in the practice of veterinary medicine under the immediate and direct on-premises supervision of the veterinarian.

"Professional judgment" includes any decision or conduct in the practice of veterinary medicine, as defined by § 54-786 of the Code of Virginia.

"Schools or colleges accredited by the AVMA" means schools accredited by the American Veterinary Medical Association.

§ 1.2. Public participation guidelines.

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulations.
3. Final regulations adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formulation or promulgation of regulations. Those on the list may be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their

desires to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

D. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formulation, promulgation, adoption and review of regulations.

§ 1.3. Register of practitioners, animal technicians and animal facilities. (§ 54-784.03(4)(7) of the Code of Virginia)

A. Register of practitioners and animal technicians.

The executive director as directed by the board shall

Proposed Regulations

record in a book to be kept for such purposes the names of all practitioners of veterinary medicine and holders of certificates as animal technicians to whom licenses or certificates are issued as provided by law. The book shall be styled and recognized as the register of practitioners of veterinary medicine and holders of certificates as animal technicians in Virginia and it shall be admissible in evidence as a regularly kept record of the board. Such register shall be available for inspection at any time during business hours in the board office. The board shall insert in the register any alteration in the name of any licensed or certified person as it receives proof satisfactory to the board. A separate record shall be maintained of all addresses.

B. Register of animal facilities.

The executive director of the board shall record in a book to be kept for such purposes the names of all animal facilities. Such book shall list the name and permit number of the animal facility and shall be admissible in evidence as a regularly kept record of the board.

C. Accuracy of address.

It shall be the duty and responsibility of each licensee and holder of a registration permit to operate an animal facility to keep the board apprised at all times of his current address. All notices required by law or by these regulations to be mailed to any veterinarian, certified animal technician, or holder of a permit to operate an animal facility, shall be validly given when mailed to the address furnished to the board pursuant to this regulation. All address changes shall be furnished to the board within 30 days of such change.

§ 1.4. Filing date. (§ 54-784.03(3) of the Code of Virginia)

Completed applications for certification and licensure shall be filed with the board office at least 30 days prior to the announced date of the examination.

§ 1.5. Records. (§ 54-784.03(3) of the Code of Virginia)

All completed applications and supporting papers submitted to the board with the application become a part of the applicant's examination records and become the property of the board.

§ 1.6. Issuance of licenses and certificates. (§ 54-784.03(3) of the Code of Virginia)

The board shall issue to each applicant who shall pass the examination for licensure as a veterinarian or certification as an animal technician a license or certificate as appropriate. Each license and certificate shall be subscribed by the president and secretary of the board and shall have affixed to it the seal of the board.

§ 1.7. Renewal requirements. (§ 54-784.03(4)(5)(7) of the Code of Virginia)

A. Every person authorized by the board to practice veterinary medicine shall, on March 1 of every odd-numbered year, pay to the board a renewal fee as prescribed in § 1.10 of these regulations, and every holder of a certificate of animal technology shall, in a like manner, pay a renewal fee as prescribed in § 1.10.

1. The board shall mail to each licensed or certified person a notice to renew his license or certificate prior to the expiration of the license or certificate.

2. It shall be the responsibility of each person so licensed or certified to return the renewal application with the prescribed fee so that it will be received by the board prior to the expiration date of his license or certificate. Failure to renew shall cause the license or certificate to lapse and become invalid.

3. A veterinarian's license or animal technician's certificate may be renewed up to one year after the expiration date, provided a late fee as prescribed in § 1.10 is paid in addition to the required renewal fee and further provided that the veterinarian or animal technician has not engaged in practice in Virginia after the expiration date.

4. Reinstatement of licenses or certificates expired for one year or more shall be at the discretion of the board. The board shall require documentation of competency and professional activities and shall impose a commensurate late fee in addition to the prescribed reinstatement fee as conditions for reinstatement of a license or certificate.

B. A new facility shall apply for registration with the board at least 30 days prior to opening for practice and pay to the board a registration fee as prescribed in § 1.10 at the time of application.

1. Every such animal facility so registered shall be required to renew the registration annually and pay to the board a registration fee as prescribed in § 1.10.

2. Failure to renew the facility registration by March 1 shall cause the registration to expire and become invalid. The registration may be reinstated without reinspection, within 30 days of expiration, provided the board receives a properly executed renewal application and a late fee as prescribed in § 1.10 in addition to the required renewal fee. Reinstatement of an expired registration after 30 days shall be contingent upon a reinspection and payment of the late fee, the reinspection fee, and the facility reinstatement fee.

3. Every new animal facility or an animal facility which changes location shall be inspected, approved and registered by the board prior to opening for the practice of veterinary medicine. Applications are to be made at least 30 days prior to the proposed opening date of said animal facility. If more than one

inspection is required for approval, the reinspection fee shall be imposed for each additional inspection.

§ 1.8. Licenses, certifications and registrations to be displayed. (§ 54-784.03(7) of the Code of Virginia)

A. Veterinarians.

Each licensed veterinarian shall post his current Virginia license to practice veterinary medicine in the facility where he practices.

B. Animal technicians.

Each certified animal technician shall post his current Virginia certificate as animal technician at the facility of the employing veterinarian.

C. Animal facilities.

Each animal facility shall have posted the current Virginia registration permit to operate such a facility.

§ 1.9. Reinstatement. (§§ 54-784.03(4) and 54-784.03(7) of the Code of Virginia)

Any person whose license to practice veterinary medicine or certificate to act as an animal technician or permit to operate an animal facility has been suspended or revoked as herein provided may thereafter, at any time, apply to the board for relicensure, recertification or reregistration. Accordingly such person may petition the board for a hearing, and the provisions of the Administrative Process Act shall apply.

§ 1.10. Fees. (§ 54-784.03(5) of the Code of Virginia)

The following fees are prescribed:

Veterinary examination fee	\$125
Veterinary license fee (to be renewed annually)	100
Veterinary license renewal late fee	25
Veterinarian reinstatement fee	250
Animal technician examination fee	75
Animal technician certificate fee (to be renewed annually)	20
Animal technician certificate renewal late fee	10
Animal technician reinstatement fee	50
Animal facility initial registration fee	50
Animal facility renewal fee (renewed annually)	50
Animal facility renewal late fee	15
Animal facility reinstatement fee	100
Animal facility reinspection fee	100
Duplicate certificate fee	10

PART II. VETERINARIANS.

§ 2.1. Requirements for licensure as a veterinarian. (§ 54-784.03(3) of the Code of Virginia)

A. The applicant, in order to be licensed by the board to practice veterinary medicine, shall:

1. Have received a degree in veterinary medicine from a college or school of veterinary medicine approved by the board; or have fulfilled the requirements of the Educational Commission of Foreign Veterinary Graduates (E.C.F.V.G.) of the American Veterinary Medical Association;

2. File the following documents with the board at least 30 days prior to the announced date of examination:

a. A complete and notarized application on a form obtained from the board;

b. An official copy, indicating veterinary degree, of the applicant's college or school transcript;

c. Two passport-size photographs of reasonable likeness of the applicant taken within six months of the date of the application;

d. Certified check, cashier's check, or money order, payable to the Treasurer of Virginia as prescribed in § 1.10 for the examination fee and the applicable licensing fee;

3. Pass the following examinations with a score on each determined acceptable by the board:

a. The national board examination;

b. The national clinical competency test; and

c. A written examination administered by the board which shall be administered at least once annually and which shall embrace such subjects as the board shall from time to time prescribe;

4. Have committed no acts in violation of § 54-786.4 of the Code of Virginia.

B. The board may also, in its discretion, grant a license to an applicant who was graduated from a school of veterinary medicine five years or more from the date of application and who is licensed in another jurisdiction provided that:

1. The applicant passes the national clinical competency test, provided however, that the board may, in its discretion, waive this requirement if the applicant has been continuously engaged in the clinical practice during the immediately preceding five years;

2. The applicant passes a written examination administered by the board;

3. The applicant has met all of the other requirements of this section;

Proposed Regulations

4. It has been verified by the appropriate regulatory board of veterinary medicine in the state or states in which he holds, or has held, a license that the applicant is in good standing. Such endorsement shall be made by formal correspondence from that board to the Virginia Board of Veterinary Medicine; and

5. The applicant has documented all professional activities since graduation from an approved school of veterinary medicine.

C. Reexamination.

1. The information required pursuant to this regulation shall be acceptable as part of the application for reexamination for a period of two years following the date of the original examination.

2. All requests for reexamination shall be filed with the board at least 30 days prior to the date of examination which the applicant wishes to take. Such requests shall be accompanied by an updated application, two passport-size photographs of the applicant taken within six months of the date of the application, and a fee in the amount prescribed in § 1.10.

§ 2.2. Requirements for practical training in a preceptorship. (§ 54-784.03(6) of the Code of Virginia)

The practical training and employment of qualified students of veterinary medicine by licensed veterinarians shall be governed and controlled as follows:

A. No student shall be qualified to receive practical training by a licensed veterinarian nor, shall a licensed veterinarian give practical training to any student unless such student shall be duly enrolled and in good standing in a veterinary college or school, and shall be engaged in a preceptorship as defined by the board and authorized by his college or school. This preceptorship shall not exceed a period of four months.

B. No student receiving practical training from a licensed veterinarian shall at any time discharge or perform any function or act pertaining to the practice of veterinary medicine, except under the immediate and direct on-premises supervision of a veterinarian licensed by the board.

§ 2.4. Unprofessional conduct. (§ 54-786.4(8) of the Code of Virginia)

Unprofessional conduct, as referenced in § 54-786.1(8) of the Code of Virginia, shall include the following:

A. Representing conflicting interests except by express consent of all concerned given after a full disclosure of the facts. Acceptance of a fee from both the buyer and the seller is prima facie evidence of a conflict of interest.

B. Practicing veterinary medicine where an unlicensed person has the authority to control the professional judgment of the licensed veterinarian.

C. Issuing a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animals that said animals meet the requirements for the issuance of such certificate on the day issued.

D. Violating the confidential relationship between himself and his clients.

E. Advertising in a manner which is false, deceptive, or misleading.

F. Failing to maintain an animal facility as set forth by these regulations.

G. Practicing veterinary medicine in an animal facility that is not currently registered. This shall not apply to emergency situations.

H. Violating any state law, federal law, or board regulations pertaining to the dispensing and/or record-keeping requirement for controlled substances.

I. Dispensing or prescribing of controlled substances not in the course of professional practice or when a bona fide veterinarian/client/patient relationship has not been established.

J. Permitting a person other than a licensed veterinarian, certified animal technician, or person otherwise duly certified in X-ray technology to operate diagnostic radiographic equipment.

K. Permitting a person other than a licensed veterinarian or a certified animal technician to induce anesthesia.

L. Practicing veterinary medicine in such a manner as to endanger the health and welfare of his patients or the public; or being unable to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition.

M. Failing to pay any required fees, or board imposed fines.

N. Refusing the board or its agent the right to inspect a facility at reasonable hours.

PART III. CERTIFIED ANIMAL TECHNICIANS.

§ 3.1. Requirements for certification as animal technician. (§ 54-784.03(3)(4)(5) of the Code of Virginia)

A. The applicant, in order to be certified by the board as an animal technician, shall:

1. Have received a degree in animal technology from a college or school approved by the board;
2. File the following documents with the board at least 30 days prior to the announced date of examination:

a. A complete and notarized application on a form obtained from the board;

b. An official copy indicating an animal technology degree of the applicant's college or school transcript;

c. Two passport photographs of reasonable likeness of the applicant taken within six months of the date of the application;

d. Certified check, cashier's check, or money order, payable to the Treasurer of Virginia as prescribed in § 1.10 of these regulations, for the examination fee and the applicable certification fee;

3. Pass the following examinations with a score on each determined acceptable by the board:

a. The national board examination for animal technicians; and

b. A written examination administered by the board which shall be administered at least once annually and which shall embrace such subjects as the board shall from time to time prescribe.

B. The board may also, at its discretion, grant a certificate to a technician certified or registered in another jurisdiction based on a written examination administered by the board to an applicant who has not taken the national board examination, provided that:

1. The applicant has met all of the other requirements of this section;

2. The applicant has filed the required application as provided for in these rules and regulations;

3. The applicant has been issued a certificate as an animal technician in another state whose requirements are at least equal to those of Virginia; and

4. The applicant furnishes to the board a certificate of good standing from the state in which he is certified at the time of submitting an application to sit for the Virginia examination.

C. Reexamination.

1. The information required pursuant to this regulation shall be acceptable as part of the application for

reexamination for a period of two years following the date of the original examination.

2. Any animal technician applicant failing to pass either part of the examination shall be reexamined at his request, at the next scheduled examination administered by the board, on the part of the examination failed. If the applicant fails to pass this reexamination, he will be required to pass a subsequent examination in its entirety.

3. All requests for reexamination shall be filed with the board at least 30 days prior to the date of examination which the applicant wishes to take. Such requests shall be accompanied by an updated application, two passport photographs of the applicant taken within six months of the date of this application, and a fee in the amount prescribed in § 1.10.

§ 3.2. Unprofessional conduct. (§ 54-784.03(8) of the Code of Virginia)

Unprofessional conduct as referenced in § 54-786.4(8) of the Code of Virginia, shall include the following:

A. Compromising the confidentiality of the doctor/client relationship.

B. Practicing animal technology in an animal facility that is not currently registered. This shall not apply to emergency situations.

C. Violating any state law, federal law, or board regulation pertaining to the use of controlled substances.

PART IV. ANIMAL FACILITIES.

§ 4.1. Qualifications to be registered as an animal facility. (§ 54-784.03(7) of the Code of Virginia)

No animal facility shall be registered by the board unless:

A. It is first inspected by the board and is found to meet the standards set forth by § 4.2 of these regulations where applicable; and

B. A veterinarian currently licensed by and in good standing with the board:

1. Is the owner, partner, or officer of such facility; and

2. Is personally responsible for maintaining such facility within the standards set forth by § 4.2.

If violations are found necessitating a reinspection, the prescribed reinspection fee will be levied. Failure to pay the fee shall be deemed unprofessional conduct.

Proposed Regulations

§ 4.2. Standards for facilities. (§ 54-784.03(7) of the Code of Virginia)

A. Every animal facility must have a permit. All facilities shall meet the requirements of this regulations, except as provided under subsection B of this regulation.

1. Buildings and grounds must be maintained to provide sanitary facilities for the care and medical well-being of patients.

a. Temperature. The facility shall be equipped so as to maintain temperatures consistent with the medical well-being of patients.

b. Ventilation. The facility shall be equipped with the capacity to ventilate.

c. Lighting. The facility shall be equipped with lighting commensurate with the procedures performed.

d. Water and waste. There shall be on-premises:

(1) Hot and cold running water from a source approved by the Virginia Department of Health;

(2) Toilets and lavatories approved by the Virginia Department of Health for the personnel and for the clients;

(3) A method of disposal of deceased animals; and

(4) Refrigeration exclusively for the storage of carcasses of companion animals.

2. Areas within buildings. The areas within the facility shall include:

a. Reception area

b. Examination room(s)

c. Surgery. Surgery shall be performed in a room reserved only for surgery and used for no other purpose. In order that surgery can be performed in a manner compatible with current veterinary medical practice with regard to anesthesia, asepsis, life support, and monitoring procedures, the surgery room shall:

(1) Be of a size adequate to accommodate a surgical table, anesthesia support equipment, surgical supplies, the veterinarian, an assistant, and the patient; and

(2) Be kept so that storage in the surgery room shall be limited to items and equipment normally related to surgery and surgical procedures.

d. Laboratory. The animal facility shall have, as a

minimum, proof of use of either in-house capability or consultant laboratory services for performing the following lab tests, as indicated appropriate for the species treated:

(1) Urinalysis, including microscopic examination of sediment;

(2) Complete blood count;

(3) Flotation test for ova of internal parasites;

(4) Skin scrapings for diagnosing of external parasites;

(5) Examinations for circulating blood microfilaria;

(6) Blood chemistries;

(7) Cultures and sensitivities;

(8) Biopsy;

(9) Complete necropses, including histopathology; and

(10) Serology.

e. Animal housing areas shall be provided with:

(1) Separate compartments constructed of nonporous materials;

(2) Accommodations allowing for the effective separation of contagious and noncontagious patients; and

(3) Exercise runs which provide and allow effective separation of animals. (In lieu of exercise runs, walking the animals at medically appropriate intervals shall be deemed to be an acceptable form of exercise.)

3. Drug storage and dispensing:

a. All drugs shall be maintained, administered, dispensed and prescribed in compliance with state and federal laws.

b. All repackaged scheduled tablets and capsules dispensed for companion animals shall be in approved safety closure containers, except that this provision shall not apply to tablets and capsules dispensed to any person who requests that the medication not be placed in such containers, or in such cases in which the medication is of such form or size that it cannot be dispensed reasonably in such containers (e.g., topical medications, ophthalmic, or otic). Repackaged topicals shall be exempt from the safety closure requirement.

c. All drugs dispensed shall be labeled with the:

- (1) Name and address of the facility;
- (2) Name of client;
- (3) Animal identification;
- (4) Date dispensed;
- (5) Directions for use;
- (6) Name, strength (if more than one dosage form exists), and quantity of the drug; and
- (7) Name of prescribing veterinarian.

d. All drugs shall be maintained in a secured manner with precaution taken to prevent diversion.

(1) All Schedule II drugs shall be maintained under lock at all times, with access to the veterinarian only, provided however, that a working stock of Schedule II drugs under separate lock may be accessible to the certified animal technician.

(2) Whenever a veterinarian discovers a theft or any unusual loss of Schedule II, III, IV, or V drugs, he shall immediately report such theft or loss to the Virginia Board of Pharmacy and to the U.S. Drug Enforcement Administration. Schedule II, III, IV and V drugs may be destroyed only by an investigator of the Virginia Department of Health Regulatory Boards or the U.S. Drug Enforcement Administration.

e. The drug storage area shall have appropriate provision for temperature control for all drugs and biologics. The stock of drugs shall be reviewed frequently and removed from the working stock of drugs at expiration date.

4. Record-keeping. Every veterinarian shall keep a written daily record of the animals he treats. The record shall include pertinent medical data such as drugs administered and dispensed, vaccines administered, and all relevant medical and surgical procedures performed.

a. Client records shall be kept for a period of three years following the last office visit or discharge of such animal from a veterinary facility.

b. Individual records shall be maintained on each patient, except that records for economic animals may be maintained on a per-client basis.

c. A distribution record shall be maintained in addition to the patient's record, in chronological order, for the administration, dispensing, or sale of all Schedule II, III, IV and V drugs. This record

shall include the:

- (1) Date of transaction;
- (2) Name of the drug and the amount dispensed or administered;
- (3) Client and animal identification; and
- (4) Identification of the person administering or dispensing the drug.

This record is to be maintained for a period of two years from the date of transaction.

d. Invoices for all Schedule II, III, IV and V drugs received shall be maintained on the premises where the stock of drugs is held. Invoices for Schedule II drugs shall be maintained separate from other records. All drug records shall be maintained for a period of two years from the date of transaction.

e. An inventory of all Schedule II, III, IV and V drugs shall be taken, dated, and signed at intervals not to exceed two years. This inventory shall indicate if it was made at the opening or closing of business and shall be maintained on the premises where the drugs are held for two years from the date of taking the inventory.

5. Radiology. An animal facility shall:

a. Have proof of use of either in-house or consultant services for obtaining diagnostic-quality radiographs.

b. Permanently imprint each radiograph with the identity of the patient and the date of exposure. Each radiograph shall also distinguish by permanent imprinting left from right.

c. Assure that radiographic equipment complies with all requirements of § F 10, Veterinary Medicine Radiographic Installations, of the Virginia Department of Health document, "Ionizing Radiation Rules and Regulations" (1980), which requirements are adopted by this board and incorporated herewith by reference in these regulations.

d. Maintain radiographs with and as a part of the patient's record.

6. Equipment. Minimum requirements:

a. Examination room:

- (1) Table with nonporous surface
- (2) Waste receptacle

b. Surgery suite:

- (1) Surgical table with nonporous surface;

Proposed Regulations

(2) Surgical supplies, instruments and equipment available commensurate with the kind of surgical services provided;

(3) Circle gas anesthesia machine, utilizing an anesthetic vaporizer, by July 1, 1987;

(4) Automatic emergency lighting;

(5) Instrument table, stand, or tray.

c. Radiology:

(1) Lead aprons;

(2) Lead gloves;

(3) Radiation exposure badges;

(4) X-ray machine.

d. Drug storage area:

(1) Refrigerator, including interior thermometer;

(2) Secured storage for Schedule II drugs;

e. General equipment:

(1) Steam pressure sterilizer;

(2) Internal and external sterilization monitors;

(3) Stethoscope;

(4) Ophthalmoscope;

(5) Thermometer;

(6) Storage for records;

(7) Anesthetic support equipment for delivery of assisted ventilation system, including but not necessarily limited to:

(a) A resuscitation bag; and;

(b) Endotracheal tubes.*

(8) Scales*;

(9) Otoscope*;

(10) Oxygen and delivery system*;

(11) Refrigerator for storage of carcasses*;

(12) Storage for records.

B. All facilities must meet the above requirements; however, in instances in which the scope of practice is

limited, then an application requesting a specifically restricted facility permit must be made to the board and indicate what services will not be provided. Upon satisfactory inspection and payment of the permit fee, a restricted facility permit with restrictions will be issued. Such restricted facility must have posted in a conspicuous manner the specific limitations on the scope of practice in a form acceptable to the board.

§ 4.3. Revocation or suspension of registration certificates. (§§ 54-786.03(7) and 54-786.5 of the Code of Virginia)

A. The board may revoke or suspend the registration permit of an animal facility and/or may declare it as not meeting the standards set forth in § 4.2 if:

1. The board finds said facility to be in violation of § 1.7 "Renewal requirements";

2. The board finds said facility to be in violation of § 4.2 "Standards for facilities"; or

3. The board or its agents are denied access to said facility to conduct an inspection.

4. The licensee does not pay any and all prescribed fees.

B. The Administrative Process Act shall apply to any determination under § 4.3 of these regulations.

PART V. SEVERABILITY.

§ 5.1. Severability clause.

If any provision of these regulations or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the regulations which can be given effect without the invalid provisions or application, and to this end the provisions of the regulations are declared severable.

* Not required for large-animal or ambulatory facilities.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984.

Effective Date: April 1, 1986

A legislative objection has been filed against these regulations in accordance with § 9-6.14:9.2 of the Code of Virginia. Please refer to the Legislative Objections and Response Section of this issue of the Register for the objection.

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Title of Regulation: VR 470-03-03. Rules and Regulations to Assure the Rights of Clients in Community Programs.

Statutory Authority: §§ 37.1-10 and 37.1-84.1 of the Code of Virginia.

Effective Date: March 5, 1986

Summary:

The Rules and Regulations to Assure the Rights of Clients in Community Programs, Licensed by the Department of Mental Health and Mental Retardation (Community Rules and Regulations) delineate the rights of clients receiving treatment or care in community mental health, mental retardation and substance abuse programs. These rules and regulations apply to all community programs licensed or funded by the Department of Mental Health and Mental Retardation except private psychiatric hospitals and facilities.

The Community Rules and Regulations identify those fundamental rights which may not be restricted by the program. The regulations further define those rights which may be restricted for therapeutic reasons, aid in the assurance of client participation in treatment decision-making and define client participation in work activities. The regulations also establish an administrative review process for review of alleged violations of rights, delineating the roles and responsibilities of persons involved. Community programs are charged with developing written policies and procedures implementing the rights and remedies

contained in the regulations. The relationships between the State Human Rights Committee, the local human rights committees, and the community programs are also delineated. The position of regional advocate is created and its responsibilities delineated.

VR 470-03-03. Rules and Regulations to Assure the Rights of Clients in Community Programs.

PART I. INTRODUCTION.

The Rules and Regulations to Assure the Rights of Clients in Community Programs delineate the rights of clients receiving services from community services boards or other agencies, public or private, which receive or benefit from funding, under the provisions of Chapter 10, Title 37.1, (§ 37.1-194 et seq.) of the Code of Virginia, and all other providers of mental health, mental retardation or substance abuse services which are required to be licensed by the Department of Mental Health and Mental Retardation. These regulations apply to all programs funded or licensed by the Department [of Mental Health and Mental Retardation] that are not subject to either the Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities, or the Rules and Regulations to Assure the Rights of Residents of Facilities [Operated by the Department of Mental Health and Mental Retardation], except correctional facilities licensed by the department] .

Since many services supported by the Department of Mental Health and Mental Retardation under Chapter 10, Title 37.1 of the Code of Virginia, are also supported [by] , administered or coordinated by local government, these regulations seek to preserve autonomy for local administrators in protecting client rights, while establishing fair and easily understood statewide standards by which local efforts can be guided and measured. The local programs are charged with developing written policies implementing the rights and remedies described in the regulations. The [state] board, through the state human rights committee, is charged with reviewing these policies to assure that they conform with the regulations contained herein.

Article I. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Authorized representative" means that the person best

Final Regulations

situated, by law or by his relationship to the client or his understanding of the client's condition, to make a decision on the behalf of a client who, because of his mental illness, mental retardation or substance abuse is unable to make an informed decision to give or withhold consent to a program's action. The director of the program shall have the primary responsibility for designating an authorized representative [in the following order of priority: .

1. A legal guardian of the client, not employed by the program and currently authorized to give consent, or an attorney in fact currently authorized to give consent under the terms of a durable power of attorney or, if the client is a minor, a parent having legal custody of the client. Where appropriate, the program director shall seek judicial appointment of a guardian as long as this attempt does not jeopardize the well-being of a client by a delay in treatment or other needed services.

2. In designating the next-of-kin, the director of the program shall select the best qualified person, if available, according to the following priority, unless from all information available to the director, another person in a lower priority is clearly better qualified: (i) spouse; (ii) an adult son or daughter; (iii) a parent; and (iv) any other relative of the client] .

"Board" means the State Mental Health and Mental Retardation Board.

"Client" means a person receiving treatment or other services from a program whether that person is referred to as a patient, resident, student, consumer, recipient or another term.

"Commissioner" means the Commissioner of the Department of Mental Health and Mental Retardation.

"Community services board" [(hereinafter CSB)] means a citizens' board established pursuant to § 37.1-195 of the Code of Virginia, which provides mental health, mental retardation and substance abuse programs and services within the political subdivision or political subdivisions participating on the board including its contractual agencies.

"Compensable work" means those activities that have direct economic value or benefit to the program, excluding personal maintenance activities that are a necessary and ongoing function of a program. The definition of compensable work does not refer to those activities such as cleaning, maintenance and upkeep usually performed by residents in a family household.

"Department" means the Department of Mental Health and Mental Retardation.

"Director" means the executive director of the community services board or the director of a program of

another organization subject to these regulations.

["Hazardous risk" means to involve risks greater than minimal risks. Procedures that present a hazardous risk include but are not limited to psychotropic medication, intrusive aversive therapy and certain surgical procedures.]

"Informed consent" means the voluntary and informed agreement of a person to any action of the program for which consent is required under these regulations. The fact that a person is mentally ill, mentally retarded or substance abusing, does not alone render the person incapable of giving such consent, but it does call for added diligence by all staff in assuring that consent obtained from a client is truly voluntary and informed. To be voluntary, the consent must be given by a person so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or any form of constraint or coercion. Informed consent usually must be based on disclosure and understanding of the following kinds of information:

1. A fair and reasonable explanation of the action proposed to be taken by the program and its purpose.
2. A description of any adverse consequences and risks to be expected and an indication whether there may be other hazardous risks not yet identified.
3. A description of any benefits reasonably to be expected.
4. A disclosure of any appropriate alternative procedures that might be equally advantageous for the client.
5. An offer to answer any inquiries by the client or his authorized representative.
6. Notification that the person is free to refuse or withdraw his consent and to discontinue participation in any prospective program's action requiring his consent at any time without fear of reprisal against or prejudice to him.
7. A description of the ways in which the client or his authorized representative can raise concerns and ask questions about the facility action to which consent is given.
8. Where the program's action involves the disclosure of records.
 - a. The name of the organization and the name and title of the person to whom disclosure is to be made.
 - b. A description of the nature of the information to be disclosed, the purpose of disclosure and an indication whether the consent extends to information placed on the records after the consent was given but before it

expires.

c. A statement of when the consent will expire, specifying a date, [~~usually within~~ no longer than] one year, event or condition upon which it will expire.

d. An indication of the effective date of the consent.

"Intrusive aversive therapy" means any physically painful stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior, except that intrusive aversive therapy does not refer to verbal therapies, seclusion, physical restraints used in conformity with these regulations or psychotropic medications which shall not be used for purposes of aversive conditioning.

"Licensed organization" [(hereinafter LO)] means a program of another organization or agency required to be licensed by the Department of Mental Health and Mental Retardation for the provision of mental health, mental retardation or substance abuse services excluding psychiatric hospitals and psychiatric units of general hospitals.

["Local Human Rights Committee" (hereinafter LHRC) means a committee of at least five members broadly representative of professional and consumer groups, appointed by the SHRC for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in these regulations. Except where otherwise provided, the word LHRC shall mean this body or any subcommittee thereof.]

[~~Minimal~~ Normal] risk" means that the risks of harm anticipated in the proposed research, treatment or other services are not greater than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations, tests or treatment.

"Record" means any written, videotaped, audiotaped, photographic or electronic data processing reference to the treatment or other services requested by any person or rendered to a client from which the identity or any other personal information, recorded or unrecorded, of the person or client may be ascertained.

"Regional advocate" means a person or persons who perform the functions set forth in Part IV of these regulations and who are appointed by the commissioner after consultation with the state human rights director.

"Residential treatment" means inpatient treatment, treatment in a group home, night treatment in a [~~hospital,~~ ~~respite care extending overnight or longer facility~~] or any other modality of treatment customarily accompanied by the provision of food and shelter.

"Restraint" means the use on any client of physical force or any mechanical device that restricts the physical

movements of such client for any purpose.

"Seclusion" means the placing of a client in a room with the door secured in any manner that will not permit the client to open it.

["Significant risk" means the risks of harm anticipated in the proposed treatment are greater than normal risks encountered in daily life or during the performance of routine physical or psychological examinations, tests, or treatment. Procedures that present a significant risk include but are not limited to psychotropic medication, intrusive aversive therapy and certain surgical procedures.]

"State human rights committee" [(hereinafter SHRC)] means a committee of nine members appointed by the board, pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation, whose responsibility it shall be to perform the functions specified in these regulations. [The word SHRC includes any subcommittee thereof.]

"State human rights director" means a person appointed by and reporting directly to the commissioner, whose responsibility it shall be to perform the functions specified in these regulations, to supervise the regional advocates and to take other necessary and appropriate actions to assist the commissioner and the state human rights committee to perform their responsibilities under these regulations and to assure the free exercise of legal and human rights by clients.

"Time out" means the practice of removing the resident from a source of positive reinforcement to an unlocked setting pursuant to an approved behavior modification plan.

"Therapeutic work" means those activities which are required as part of the treatment of the client, not activities primarily intended to produce products of direct economic value or economic benefits to the program or client.

"Treatment" means individually planned interventions, intended to improve, maintain or minimize the loss of an individual's functioning in those areas which show impairment as the result of mental illness, mental retardation or substance abuse, whether referred to as rehabilitation, habilitation, training, education or another term.

Article 2.

Allowable Variances and Severability.

§ 1.2. For good cause shown and consistent with the purposes of these regulations, the state human rights committee may grant to any program a variance from these regulations.

Final Regulations

§ 1.3. If any clause, sentence, paragraph, subdivision, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall be confined in its effect to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

PART II. CLIENT RIGHTS.

[Article 1. Notification.]

[§ 2.1. A. Each program shall prominently post throughout each facility a document setting forth the rights of clients and the means by which they can contact an advocate.

B. Each client or authorized representative, if applicable, shall be personally given notice of these rights and of the appeal process in writing upon admission and every 180 days thereafter.

C. Receipt of this notice shall be acknowledged by each client or authorized representative, if applicable, in writing and made part of the client's record. If the client refuses or is unable to acknowledge receipt of such notice, the person delivering such notice shall document that fact in the client's record.

D. Written notice of these rights shall include at least:

1. An abbreviated statement of the rights.
2. The name of the advocate, how to contact the advocate, and a brief description of the role of the advocate.

E. If a client is unable to read the written notice of these rights, the notice shall be read to the client.

F. If there is a reason to believe that the client is unable to comprehend the written notice of these rights, he shall have such notice explained to him insofar as he is capable of understanding.]

Article [~~1~~ 2.] Treatment.

[~~§ 2.1.~~ § 2.2.] Every community services board or licensed organization shall make reasonable accommodations to serve the handicapped. A client shall not be denied services on the basis of race, national origin, sex, age, religion [~~or~~ ,] handicap [, or ability to pay].

A. A community services board or licensed organization may restrict a particular service to clients of the same sex, similar age or handicap where that restriction is reasonably related to treatment goals.

B. Fee schedules and reimbursement policies shall be set forth in writing and publicly disseminated.

1. These schedules and policies shall take into account the client's or applicant's need for services and his ability to pay.

2. The ability to pay of a minor seeking services to which his parents need not consent shall be considered independently of the parents, unless the minor authorizes the community services board or licensed organization to notify and seek reimbursement from his parents.

C. The community services board or licensed organization shall prepare with the maximum participation of the client and any authorized representative, an individualized [written] treatment plan before or promptly after his admission to a community services board or licensed organization which is responsive to his needs and preferences.

1. The individualized treatment plan shall be periodically reviewed and modified to be responsive to the changing needs and preferences of the client and any authorized representative.

2. The individualized treatment plan shall be integrated with all services received by the client.

D. The community services board or licensed organization shall prepare a written plan for each client for the provision of services upon discharge from the program.

§ 2.2. A community services board or licensed organization shall not deny services to a client or applicant solely because he asserts rights protected by these regulations or any other law, nor shall the provision of services be conditioned on the waiver by an applicant or client of his rights.

Article [~~2~~ 3.] Confidentiality.

§ 2.3. A community services board or licensed organization shall maintain all records of treatment or requests for treatment with confidentiality.

A. Disclosures of records may be made only with the consent of the client or [if applicable] his authorized representative, except in emergencies or otherwise required [or permitted] by law. [In the case of minors in residential programs, the concurrent consent of a parent with legal custody must also be obtained.]

B. The client or his authorized representative shall have the right to inspect and copy his own records and may make correction of records acknowledged by the program to be in error, or place in the records a statement correcting [alleged] errors [~~not so acknowledged~~].

[1.] The community services board or licensed organization may deny the client the opportunity to personally inspect and copy his records where the client's treating physician, after personally reviewing the records, has made as a part of such client's records, a written statement that review of the record by the client would be injurious to the client's physical or mental health or well-being.

[2. Where disclosure to the resident is limited or denied, disclosure shall be made, upon request, to any lawyer, physician, or psychologist designated by the client or to his authorized representative.]

C. The community services board or licensed organization shall comply with the provisions of the Virginia Privacy Protection Act of 1976.

§ 2.4. The community services board or licensed organization shall ensure any service providing treatment for or diagnosis of substance abuse problems, and shall comply with applicable federal regulations as well as such provisions contained in these regulations not in conflict with federal law or regulation.

Article [3. 4.] Consent.

§ 2.5. Except in an emergency, a community services board or licensed organization shall not administer treatment, or any other service presenting a [~~hazardous~~ significant] risk, to a client without the [informed] consent of the client [or authorized representative].

A. If the client is [~~capable~~ incapable] of giving [informed] consent, [the consent it] may be given by an authorized representative.

1. The community services board or licensed organization shall [~~encourage~~ provide for the] involvement of the client in treatment decision-making [to the maximum extent permitted by his capacity and to the extent permitted by his capacity and shall encourage] maximum development or restoration of the client's capacity to consent.

2. The community services board or licensed organization shall arrange for treatment decisions to be made by an authorized representative empowered to give, withhold or withdraw consent to treatment and keep that authorized representative informed of the results of treatment.

B. The community services board or licensed organization shall define emergency treatment for which consent is unnecessary and provide for documentation of the emergency treatment.

C. The community services board or licensed organization shall assure a fair and effective clinical review of the capacity of a client to [give informed]

consent when that capacity is in doubt. Wherever possible this review shall be conducted by a physician, psychologist, social worker or nurse who is not otherwise engaged in providing or offering treatment to the client.

[D. In cases of clients in need of treatment or other services presenting hazardous risk who lack the capacity to consent.]

Article [4. 5.] Dignity.

§ 2.6. A client shall have the right to be treated with dignity as a human being at all times, regardless of his need for treatment or other services.

A. All employees of the community services board or licensed organization shall call the client by his preferred or legal name.

B. All employees of the community services board or licensed organization shall make all reasonable efforts to protect the client from harm, abuse and exploitation.

§ 2.7. A client shall have the right to apply for and to receive reasonable assistance in applying for and making full use of any public service or benefit to which the client may be entitled, including but not limited to educational or vocational services, housing assistance, welfare benefits, services or benefits under Titles II, XVI, XVIII, and XIX of the Social Security Act and services from [a] legal [aid society and/or advocacy service agencies].

§ 2.8. A client shall have the right to have a copy of rules of conduct applicable to services in which he is participating.

§ 2.9. A community services board or licensed organization [~~involving~~ involved in] residential treatment shall ensure that treatment [or other services are is] provided in a humane and normalized setting.

A. A residential client shall have the right to a safe, sanitary and humane environment.

B. A residential client shall have the right to comfortable, clean and suitable clothing appropriate to the season and to the age, sex and size of the client [; provided that . Provisions for] the cost of such clothing and its cleaning shall be [added to the considered a] cost of treatment subject to reimbursement.

C. A residential client shall have the right to communicate in confidence with any person by mail or telephone and to be assisted in exercising this right subject only to the following conditions and limitations:

1. Whenever a staff member has probable cause to believe that mail received by a residential client contains contraband or anything that would create a

Final Regulations

danger to the client or others, the mail may be opened (but not read) by the staff member in the presence of the client.

2. Upon request, an indigent residential client shall have a right to sufficient letter-writing material and postage to mail one letter per day, or the equivalent.

3. Upon request, and subject to appropriate management limitations, a residential client shall have the right to make, without charge, local telephone calls from a telephone within the program [; provided such calls do not result in additional cost to the community services board or licensed organization].

4. The use of telephones [;] may be restricted to the extent that it is necessary to assure equal access by the clients to the telephones or to permit clients to dine or sleep without disturbance or participate in a community services board or licensed organization [activity].

5. Nothing herein shall obligate the community services board or licensed organization to assist in the perpetration of or to refrain from reporting or otherwise intervening to prevent any criminal act.

D. A residential client [may have a staff member assist shall, when necessary, receive assistance] in writing or reading mail.

E. A residential client shall have the right to communicate or consult in private with any lawyer, judge, legislator, [regularly] ordained clergyman, licensed health care practitioner, the client's authorized representative or the regional advocate.

F. A residential client shall have the right to attend or refuse to attend any religious services held on the premises of the community services board or licensed organization and to engage in any recognized religious practice, including refusal of treatment or other services, provided that such religious services or practices neither present a danger or bodily injury to the client or others, nor interfere with another client's religious beliefs or practices.

Article [5. 6.] Least Restrictive Alternative.

§ 2.10. When alternative kinds of treatment or treatment settings are reasonably available, the community services board or licensed organization shall offer the treatment or treatment setting which is no more restrictive of the client's physical or social liberties than is necessary to achieve a substantial therapeutic benefit or to significantly reduce a foreseeable risk of harm to the client or others. Activities and conditions which shall be protected under Article 4 as essential to the client's dignity shall not be restricted under this section for therapeutic or administrative reasons. All other activities and conditions

of living, including but not limited to private visitation other than that described in § 2.9 E, use of personal funds, the use of recreational facilities, the use of personal clothing and other personal items, may be restricted, but only on the basis of a therapeutic or administrative necessity demonstrated and documented in accordance with this section.

A. A community services board or licensed organization may impose a therapeutic restriction on a client provided that:

1. The restriction does not conflict with other provisions of these regulations, the program's written policies implementing these regulations, or the client's individualized treatment plan.

2. The restriction has been determined by a staff person responsible for the treatment of the client to be necessary for that treatment, and provisions are made periodically to review the therapeutic need for the restriction.

3. The behavioral criteria for the imposition and removal of the restriction shall be communicated to the client [or authorized representative] and the use of and the reason for its use documented in the chart.

[Article 7. Restraints.]

[~~B.~~ § 2.11.] A community services board or licensed organization shall not use restraint or intrusive aversive therapy, except in compliance with written policies which shall assure that:

[~~1.~~ A.] These procedures shall be used only when necessary and under the close supervision of adequately trained staff persons.

[~~2.~~ B.] These procedures of treatment shall not be used in such a way as to violate other provisions of the regulations.

[~~3.~~ C.] [~~Clients~~ A client] subjected to these procedures, and the regional advocate shall be given an opportunity to obtain an independent clinical review of the necessity and propriety of their use.

[~~4.~~ D.] The purposes of restraint or intrusive aversive therapy, and the qualifications of the persons who may order it, implement it, monitor it, and release the patient from or continue the use of restraint or intrusive aversive therapy shall be clearly defined.

Article [6. 8.] Seclusion.

[~~§ 2.11.~~ § 2.12.] A client shall not be subject to seclusion except for emergency situations in which it is evident that he might harm himself or others if he is not secluded.

A. These procedures shall be used only when necessary and under the close supervision of adequately trained staff persons.

B. These procedures of treatment shall not be used in such a way as to violate other provisions of the regulations.

C. ~~[Clients~~ A client] subjected to these procedures, or his authorized representative and the regional advocate shall be given an opportunity to obtain an independent clinical review of the necessity and propriety of their use.

D. The purposes of seclusion and the qualifications of the persons who may order it, implement it, monitor it and release the patient from or continue the use of seclusion shall be clearly defined.

E. The facility, part or section of the facility to be used for seclusion, shall meet the Uniform Statewide Building Code provisions for buildings designed for the detention of persons under seclusion.

F. The seclusion room shall be at least six feet wide by six feet long with a minimum ceiling height of eight feet.

G. The seclusion room shall be free of all protrusions, sharp corners, hardware, fixtures or other devices, which may cause injury to the occupant.

H. Windows in the seclusion room shall be so constructed as to minimize breakage and otherwise prevent the occupant from harming himself.

I. Light fixtures and other electrical receptacles in the seclusion room shall be recessed or so constructed so as to prevent the occupant from harming himself. Light controls shall be located outside the seclusion room.

J. Heat [and ventilation] shall be provided to the seclusion room with automatic controls located outside of the room.

K. Doors to the seclusion room shall be at least 32 inches wide, shall open out, and shall contain observation view panels of transparent wireglass or its approved equivalent, not exceeding 120 square inches but of sufficient size for staff outside the door to see into all corners of the room.

L. Locks on the seclusion room doors shall be arranged on the outside so as to permit exit from the room by simple operation without use of a key.

M. The seclusion room shall contain only a mattress with a washable mattress covering designed to avoid damage by tearing.

N. The length of time of seclusion of a client shall be for no more than one hour and seclusion of a client shall not occur more than one time in a 24-hour period.

O. Should the client's behavior continue to be unmanageable at the end of the maximum one-hour period, the [~~clinical~~] director shall decide whether the continued placement in the [~~service~~ program] is appropriate. If the decision is that the continued placement is appropriate and the client's behavior is still unmanageable, [~~either a one or more~~] staff [~~member~~ members] shall be placed in the locked seclusion room with the client, or the door to the room in which the client is placed shall be unlocked. The staff [~~member~~ members] shall remain in the locked seclusion room with the client until the client is removed from the seclusion room or the seclusion room door is unlocked. If the decision is made that the continued placement is inappropriate, the client shall be removed from the [program of the] community services board or licensed organization and transported to a more suitable placement.

P. The physical and psychiatric condition of each client placed in seclusion shall be monitored at least every 15 minutes by an appropriately trained staff member designated by the director. The client shall have [~~bathroom~~ privileges access to a bathroom] according to his needs.

Q. Detailed documentation regarding every incident in which a client is placed in seclusion, including the reasons for seclusion, length of time in seclusion, observations of the client in seclusion, and the resolution of the seclusion incident, shall be documented within 24 hours of the incident. Such documentation shall become a permanent part of the client's record.

[Article 9.
Time Out.

§ 2.13. Each director shall develop and annually review policy governing the use of time out.]

[Article 10.
General Rules of Conduct.]

[§ 2.12: § 2.14.] A reasonable restriction may be imposed when a group of clients reside together [; and] when the restriction is necessary for a safe and orderly environment, provided that:

[1. A.] The restriction shall not conflict with any of the other provisions of these regulations, the program's written policies implementing these regulations or the client's individualized treatment plan.

[2. B.] The restriction shall be communicated to the client and the use of and the reason for its use documented in the chart.

[3. C.] The restriction shall be fairly applied to other similarly situated clients in the [program of the] community services board or licensed organization.

[4. The restriction shall fairly allocate community

Final Regulations

~~services boards or licensed organizations resources among its clients.]~~

[~~5. D.~~] The restrictions shall be defined and enforced with the maximum involvement of the clients in [~~that the~~ program of the] community services board or licensed organization.

[~~6. E.~~] The restriction shall not involve restraint, seclusion or the use of intrusive aversive therapy.

Article [~~7. 11.~~] Work.

[~~§ 2-12. § 2.15.~~] Each community services board or licensed organization shall ensure that no client shall be required to perform compensable work unless compensated fairly in accordance with the Fair Labor Standards Act.

A. Consideration for employment for qualified clients shall be given on an equal basis with other job applicants and employees, after making reasonable [~~modifications~~ accommodations] in the nature of the employment for each physically or mentally handicapped applicant or employee.

[~~B. The clients and employers shall be educated in the catchment area of the community services board or licensed organization regarding]~~ The laws and policies affecting the employment of handicapped persons [shall be made available to clients and employers].

[~~§ 2-14. § 2.16.~~] The community services board or licensed organization [~~shall not withhold or may]~~ terminate treatment because of the refusal of a client to perform therapeutic work [only when this occurs in accordance with mandatory standards for community programs for case closure, termination and discharge. In complying with these standards each community services board or licensed organization shall establish specific criteria which address refusal to perform therapeutic work. When termination occurs because of refusal to perform therapeutic work, the community services board or licensed organization shall provide follow up].

[A.] Compensable work programs designed specifically to enhance or develop vocational skills shall not be subject to this provision.

[~~§ 2-15. § 2.17.~~] The community services board or licensed organization shall not require, entice, persuade or permit a client to perform [~~labor~~ compensable work without payment].

A. Personal maintenance [~~or~~] personal housekeeping, [, and therapeutic work,] by residential clients are not subject to this provision.

B. The [~~client~~ program] shall enter into a written agreement [~~to do so; and have the capacity to enter into~~ such an agreement with the client or authorized

representative] to do the proposed [~~labor~~ work].

C. The director of the community services board or licensed organization shall determine that the proposed [~~labor~~ work] is consistent with his individual treatment plan.

[~~§ 2-16. § 2.18.~~] The community services board or licensed organization shall not pay a client less than the state minimum wage or less than is paid to any other employee in the same job classification, whichever is greater.

A. [~~Prior approval from an independent and impartial reviewer or review committee; or~~] Approval by the United States Department of Labor may be granted as a waiver to this provision.

Article [~~8. 12.~~] Other Legal Rights.

[~~§ 2-17. § 2.19~~] Nothing in these regulations shall be interpreted as impairing any other legal right or remedy to which a client may be entitled under the laws of Virginia or the United States.

[~~§ 2-18. § 2.20.~~] Except as otherwise provided by state or federal law, no person shall be denied legal rights, privileges or benefits solely by virtue of being voluntarily or involuntarily admitted, certified or committed to a community services board or licensed organization. Such legal rights include but are not limited to the following:

1. The right to dispose of property.
2. The right to execute legal instruments.
3. The right to buy or sell.
4. The right to enter into contractual relationships.
5. The right to register and vote.
6. The right to marry and obtain a separation, divorce or annulment.
7. The right to hold a professional, occupational, or vehicle operator's license.
8. The right to make a will.
9. The right of access to legal counsel and to the courts.

[Article 13. Research.]

[~~§ 2.21.~~ Human research involving resident subjects shall be conducted in compliance with § 37.1-237 of the Code of Virginia, the regulations promulgated by the board under § 37.1-238, and with all applicable federal laws and regulations.]

PART III. REMEDIES.

Article 1. Hearing and Appeals.

§ 3.1. A client shall have, in addition to all other legal remedies available to him, a right to an impartial administrative hearing of any complaint, made by him or anyone on his behalf, that his rights under Part II of these regulations or any written policy implementing these regulations, have been abridged. The community services board or licensed organization shall prescribe procedures for requesting and conducting this hearing. The community services board or licensed organization shall assure that the hearing will fairly adjudicate the complaint and will remedy any violations of community services board or licensed organization policies adopted under these regulations.

§ 3.2. The community services board or licensed organization, alone or with other similar community services board or licensed organizations located near each other, shall establish a committee of no fewer than five members broadly representative of professional and consumer interest served by that community services board(s) or licensed organization(s),

A. One member of the committee may be a member of the community services board.

B. The committee shall conduct hearings pursuant to this section, resolve factual conflicts, and render recommendations based on the facts and these regulations to the community services board(s) or licensed organization(s).

C. The hearing shall be conducted pursuant to written policies of the program or programs, the by-laws of the committee, [which shall be approved by the SHRC,] and § 9-6.14:11 of the Code of Virginia.

D. The hearings shall be closed, unless the client requests that they be open, or an open hearing is required by the Virginia Freedom of Information Act.

§ 3.3. A client shall have the right to appeal the outcome of a hearing held pursuant to § 3.1. of these regulations to the state human rights committee.

A. The decision of the state human rights committee shall be based on these regulations, any written policies of the community services board or licensed organization, and the facts adduced at the hearing held pursuant to this article.

§ 3.4. The community services board or licensed organization policies developed pursuant to these regulations shall adequately assure that its staff shall cooperate fully with the committee constituted under this article and with the regional advocate.

PART IV. REGIONAL ADVOCATES.

Article 1. Creation and Supervision.

§ 4.1. The commissioner shall create within the department the position or positions of regional advocate to be selected and supervised by the state human rights director who shall consult with the state human rights committee on such selections.

§ 4.2. The regional advocate shall have the following responsibilities in addition to any that the state human rights director shall assign:

1. The regional advocate shall assist the client, unless the client refuses assistance, in presenting complaints arising under these regulations in a hearing or appeal conducted under these regulations.

2. The regional advocate shall investigate, examine and monitor the compliance of the community services board or licensed organization [as set out in with] these regulations [: He shall and] report periodically to the community services board or licensed organization, the state human rights director and the state human rights committee.

3. The regional advocate shall educate community services board or licensed organization staff and clients regarding these regulations and the policies developed pursuant to these regulations.

4. The regional advocate shall assist the community services board or licensed organization staff and clients in fairly and efficiently settling disputes that arise concerning the rights and remedies, as provided in these regulations.

§ 4.3. The regional advocate shall have the authority necessary to fulfill the responsibilities assigned pursuant to these regulations and shall be granted access and authority to interview any client of any community services board or licensed organization at any [reasonable] time and to obtain any other necessary information.

PART V. APPROVAL AND MODIFICATION OF WRITTEN POLICIES.

Article 1. Written Policies, Modifications and Sanctions.

§ 5.1. Within 180 days following the promulgation of these regulations, each community services board or licensed organization shall submit to the state human rights committee a written policy clearly setting forth the manner in which the community services board or licensed organization will implement these regulations.

[B: A.] The community services board shall determine whether the contractual program's human rights plan is submitted independently or as a part of the community services board plan.

[A: B.] A community services board may require a

Final Regulations

contractual program to submit their human rights plan to the community services board for review prior to the submission by the community services board to the state human rights committee as part of their contractual agreement.

§ 5.2. Within 180 days following submission of a written plan to the state human rights committee, and after notice to and an opportunity to be heard from the community services board(s) or licensed organization(s) submitting the plan, the state human rights committee shall determine whether the written plan conforms with the requirements of these regulations.

A. If the state human rights committee determines that the written plan does not conform in [~~any~~ respect all respects] with these regulations, the state human rights committee shall make recommendations for revision.

1. The community services board(s) or licensed organization(s) submitting the written plan [~~may~~ shall] revise as recommended that plan for resubmission.

B. A revision of a plan, which the state human rights committee fails to rule on within 90 days of submission, shall be deemed to have been approved by the state human rights committee.

§ 5.3. The failure of a community services board or licensed organization to adopt an approved written policy, or to adequately revise a written plan, which in the opinion of the state human rights committee does not conform with these regulations, shall be taken into consideration by the commissioner [during the approval/disapproval of the plan, or] in any funding or licensure decision affecting that community services board or licensed organization, and may serve as the basis of withholding licensure or funding which directly or indirectly benefits the community services board or licensed program.

§ 5.4. A community services board or licensed organization may make a prospective modification of its written plan implementing these regulations [, subject to approval of the SHRC].

A. If after submitting the proposed modifications to the state human rights committee, the committee does not approve the modification by majority vote, the community services board or licensed organization will receive written notice of an opportunity to be heard by the committee regarding these modifications.

B. If the community services board or licensed organization fails to appear, the committee will rule within 90 days of submission that the modifications fail to conform to these regulations.

[Article 2.
Variances.]

[§ 5.5. A variance to the requirements imposed on any program by these regulations may be granted by the SHRC upon application by the director, if the following procedures are observed:

A. After obtaining approval of the community services board or licensed organization board of directors and after notifying the regional advocate and other interested parties, the program director shall file with the LHRC a formal application which states the reasons for seeking the variance and includes a substitute rule or procedure which will substantially accomplish the objectives of the regulation to which a variance is requested.

B. Upon receipt of any application for a variance, the LHRC shall invite oral or written statements by the regional advocate and other interested persons.

C. At its next regularly scheduled meeting following receipt of an application for a variance, the LHRC shall render, in writing, a report outlining the relevant facts, recommending approval, modification or disapproval of the application, and stating in detail, the reasons for its recommendation. A copy of this report shall be sent to the State Human Rights Director, SHRC and the community services board or licensed organization board of directors. A copy of the original application shall also be sent by the LHRC to the SHRC and the State Human Rights Director.

D. Upon receipt of an application for a variance, the SHRC shall invite oral and written statements by the director, the advocate, the LHRC, and other interested persons.

E. At its next regularly scheduled meeting following receipt of an application for a variance, the SHRC shall render, in writing, a decision deferring, disapproving, modifying or approving the application, and stating its reasons for its decision. A copy of the decision shall be sent to the program director, the director, the State Human Rights Director, the regional advocate, the LHRC, and the commissioner.

F. The decision of the SHRC granting variances shall be final. Decisions of the SHRC denying variances shall be final unless the commissioner notifies the SHRC and the board within 10 days that he has determined that the variance is necessary to protect the safety or welfare of an individual client or to establish or maintain minimum standards of safe and human care in the program.]

[Article 3.
Review Process.]

[§ 5.6. The commissioner shall outline in writing the action he proposes to take in response to the recommendations of the SHRC on human rights plans and appeals. If he declines to take any of the actions recommended by the SHRC, the LHRC, the director, and other parties, he shall explain why in writing. If the SHRC objects, in writing, to the commissioner's proposed actions,

the commissioner shall meet with the SHRC at its next regularly scheduled meeting to attempt to arrange a mutually agreeable course of action. The commissioner's proposed action shall be deferred until the commissioner and the SHRC meet. The commissioner's decision shall be final and binding on all parties; provided however that whenever, in the SHRC's opinion, the commissioner's decision is incompatible with the purpose of these regulations, it shall notify the board.]

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-8. Real Property Disposition Period in the Aid to Dependent Children (ADC) Program.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Effective Date: March 5, 1986

Summary:

This regulation is an option provided states in § 2626 of the federal Deficit Reduction Act of 1984 (Public Law 98-369). The intent of the regulation is to allow applicants and recipients of assistance through the Aid to Dependent Children (ADC) Program a more reasonable amount of time to market excess nonexempt real property. An extension to the current disposition period was necessary as property owned by persons needing assistance, in many instances, is not "choice" property and, therefore, this regulation provides additional time to market the property. The regulation also defines terms.

No substantive changes were made in the text of the final regulation as a result of responses received during the public comment period. Revisions were made in the definitions section, however, to reflect changes which resulted from enactment of an emergency regulation (VR 615-01-9-1), signed by Governor Robb on November 30, 1985.

VR 615-01-8. Real Property Disposition Period in the Aid to Dependent Children (ADC) Program.

PART I.

§ 1.1. The following words and terms, when used in these guidelines, shall have the following meaning, unless the context clearly indicates otherwise:

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive an assistance payment.

["Contiguous property" means land that is not separated from the home by land owned by others. Streams and public rights of way which run through the property and

separate it from the home will not affect the property's contiguity.]

"Exempt real property" means the home in which the assistance unit lives. The home includes the house and lot[; including adjoining land used for a vegetable garden and/or other outbuildings essential to the dwelling used as the principal residence and contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. The lot occupied by the house shall be a measure of land as designated on a plat or survey or whatever the locality sets as the minimum size for a building lot, whichever is less. In localities where no minimum building lot requirements exist, a lot shall be a measure of land designated on a plat or survey or one acre, whichever is less].

"Good faith effort" means an attempt to sell the excess real property within a range of 10% of the fair market value of such property. Attempts may include, but are not limited to, listing the property with a real estate company or advertising the property in various ways.

"Recoupment" means withholding all or part of an assistance payment to a current assistance unit for the purpose of repaying a prior overpayment.

"Recovery" means a voluntary or court ordered arrangement with a current or former assistance unit for repayment of an overpayment.

PART II.

§ 2.1. When ownership of nonexempt real property alone, or in combination with other countable assets, causes an assistance unit's resources to exceed the \$600 maximum allowable limit, assistance shall be granted to the otherwise eligible assistance unit members for a period not to exceed ~~six~~ nine months, provided the assistance unit signs an agreement to dispose of the property and repay assistance received during the period and continues to make a good faith effort to sell the property.

§ 2.2. If the excess nonexempt real property is sold during the ~~six~~ nine -month period, the entire amount of assistance received during the period, less support collected by the Division of Child Support Enforcement (DCSE) Programs, is an overpayment and repayment is to be made from the net proceeds from the sale of the property, except repayment cannot exceed the total amount of the net proceeds. If the net proceeds from the sale, plus all other resources available to the assistance unit at the beginning of the disposition period, do not exceed the \$600 allowable resource limit, no overpayment exists.

If the assistance unit refuses to repay assistance received with the proceeds from the sale of the property, the overpayment is subject to recoupment and/or recovery.

§ 2.3. If the excess nonexempt real property is not sold during the ~~six~~ nine -month period, the entire amount of

Final Regulations

assistance received during the period, less child support collected by the Division of Child Support Enforcement (DCSE) Programs, is an overpayment which is subject to recoupment and/or recovery.

§ 2.4. If the unit becomes ineligible for assistance during the ~~six~~ nine-month period because it no longer meets categorical or other financial eligibility requirements, the entire amount of assistance received during the period, less support collected by the Division of Child Support Enforcement (DCSE) Programs, is an overpayment which is subject to recoupment and/or recovery.

* * * * *

Title of Regulations: VR 230-40-002 - Department of Corrections. VR 270-01-0005 - Department of Education. VR 615-52-11 - Department of Social Services. Rules of the Interdepartmental Committee on Rate-Setting: The Joint Regulations on Rate-Setting for Children's Facilities of the Board of Corrections, the Board of Education and the Board of Social Services.

Statutory Authority: § 2.1-703 of the Code of Virginia.

Effective Date: March 5, 1986

Summary:

These regulations establish a uniform process to approve rates for all day or special education schools for the handicapped, residential providers of child care or regional public special education programs for the handicapped that accept publicly funded children. The rates established through this process will be paid by all school boards, court service units, and social service departments.

The current process is similar to the process proposed in these regulations. The process sets unit costs for each service provider depending on the proposed cost of each service provider. The process lists allowable costs and unallowable costs and prescribes minimum utilization rates to be used in determining unit costs.

The boards carefully considered all of these comments and responded by incorporating suggestions received from the public, however, no substantive changes were made.

TABLE OF CONTENTS

PART I - INTRODUCTION.

- Article 1. Definitions
- Article 2. Legal Base
- Article 3. General Information
- Article 4. Initial and Subsequent Approvals
- Article 5. Predetermined Maximum Percentage Rate Increase and Exceptions
- Article 6. Interdepartmental Rate Review Panel

- Article 7. Obligations of Service Providers
- Article 8. Employee Compensation
- Article 9. Utilization Rates
- Article 10. Interdepartmental Rate Review Appeals Panel and Formal Due Process Hearing Procedures

PART II - PURCHASABLE SERVICES.

- Article 1. Basic Services
- Article 2. Optional Services Available
- Article 3. Service Requirements
- Article 4. Services

PART III - REVENUES AND EXPENSES

- Article 1. General
- Article 2. Allowable Expenses
- Article 3. Unallowable Expenses
- Article 4. Excluded and Included Revenue

PART IV - BUDGET AND REPORTING CATEGORIES

- Article 1. General
- Article 2. Revenue and Expense Categories

APPENDIXES

- I. Statement of Revenue and Expense Year Ending December 31
- II. Statement of Functional Revenue and Expense Year Ending June 30
- III. Formula for Allowable Interest on Current Indebtedness
- IV. Working Capital Interest Expense

VR 615-52-11. Rules of the Interdepartmental Committee on Rate-Setting: The Joint Regulations on Rate-Setting for Children's Facilities of the Board of Education, the Board of Social Services and the Board of Corrections.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

["Catchment area" means the area served by a facility operated by the State Department of Mental Health and Mental Retardation.]

"Licensed capacity" means the maximum number of service recipients a facility may serve which is set by the Interdepartmental Licensure and Certification of Residential Facilities for Children. For out-of-state

facilities, the licensed capacity is set by the appropriate agency in the home state.

"Nonfee revenue" means revenue generated through contributions, bequests, endowment funds, fund raising, grants, etc., not fees.

"Nonpersonnel costs factor" means the average operational nonpersonnel portion of the facility budgets for children's facilities from a statewide survey which equals 30%.

"Personnel costs factor" means the average portion of total salary costs which is the combination of instructional and child care personnel factors which equals 70%.

"Planned capacity" means the maximum number of service recipients a facility's program is designed to serve.

"Predetermined maximum" means the percentage of maximum allowable rate increase for a facility that does not require a rate exception request.

"Program" means a set of basic services for a defined population group.

["Public employee" means professionals and nonprofessionals in a local education agency or city, county, commission or state operated program, holding a comparable position to the position being evaluated in the private school, having similar duties and qualifications, and employed in a facility serving the most similar type of youth with the most similar type of program.]

"Rate negotiator" means responsible staff in the departments who process the applications.

["Region" means the catchment area of the state operated program being used for salary comparisons. The private facility requesting the rate exception is responsible for documenting the salary scales and the identification of state positions to be used in evaluating the rate exception request.]

"Service providers" means providers of day or residential special education schools for the handicapped, residential providers of child care or regional special education programs for the handicapped for which a unit cost for publicly paid participant fees must be established.

"Teacher compensation" means the average increase in the teacher salary scales for the current year.

"Term agreement" means the conditions and rates set by the departments under the provisions of the Interdepartmental Committee on Rate-Setting for Children's Facilities.

"Utilization rates" means the percentage determined by dividing a level of enrollment by the licensed or planned capacity.

Article 2. Legal Base.

§ 1.2. The departments are required by the Code of Virginia § 2.1-703 to establish rates for certain residential facilities and day schools for the handicapped.

Article 3. General Information.

§ 1.3. Each service provider shall be required to submit a full Service Provider Application during the first two years of participation in the rate-setting process. Thereafter, the full application shall be required biennially. In years in which the full application is not required, the service provider shall submit the Alternate Year Service Provider Application (short form). Whenever the service provider is requesting a rate in excess of the predetermined maximum allowable increase, a full Service Provider Application must be submitted. Rate exceptions are allowed only for categories described in Part I, Article 5.

§ 1.4. Applications for initial approvals and rate exceptions shall be submitted to the Interdepartmental Rate Review Panel. The panel shall provide recommendations to the departments concerning the appropriateness of the request.

§ 1.5. Service Provider Applications and Alternate Year Applications are due [~~November~~ March] 1 of each year for providers whose rates are negotiated by the Department of Education. Providers who negotiate with the Department of Social Services shall submit the appropriate application four months prior to the expiration of the current contract.

§ 1.6. Rates shall be effective for a 12-month period (July 1 through June 30) for special education providers. Rates for nonspecial education residential facilities shall be effective for a period of 12 months from date of renewal or initial approval.

Article 4. Initial and Subsequent Approvals.

§ 1.7. The following are the requirements for initial approval:

1. Information to be submitted.

Applicants seeking initial approval as a service provider shall submit the following information:

a. Service Provider Application;

b. Statement of Compliance certifying that the service provider complies with the Obligations of Service Providers (see Part I, Article 7);

c. Program Narrative (not in excess of one typewritten page per program); and

Final Regulations

d. Organization chart.

2. Types of initial approvals.

Initial approval shall be considered under two categories as follows:

a. An applicant shall be considered a newly opened program if no service recipients have been in the program for more than 12 months prior to the date of application.

b. An applicant shall be considered an existing program new to the rate-setting process if the program has had service recipients enrolled for more than 12 months prior to the date of application.

3. Date of application.

The date of application shall be the date on which required items are complete and received by the appropriate department.

4. Review process.

The rate negotiator shall review the required items to assure that all items have been completed. Should any required items be missing, the rate negotiator shall advise the applicant in writing. Initial applications shall be submitted to the Interdepartmental Rate Review Panel.

A service provider shall be classified as a newly opened program or as an existing program new to rate setting.

5. Newly opened program.

To qualify as a newly opened program the following conditions shall be met:

a. Substantially new and different staff positions and substantially different individuals occupying those positions.

b. Substantially different classes of service recipients.

c. A distinct budget and distinct record keeping which demonstrates separation of the programs.

6. Rate approval.

The applicant shall receive approval as a service provider under one of the following:

a. If the applicant is a newly opened program:

(1) The agreement and rate shall be executed under a contract expiring on June 30 for special education

service providers, or at the end of the quarter nearest a 12-month period of time from the "effective date" of the initial contract for nonspecial education service providers. The rates shall be determined using utilization rates as specified under Part I, Article 9, for initial approval.

(2) For the second year of operation the service provider shall submit a full application package as outlined in Part I, Article 4.

(3) Thereafter, the service provider shall follow the procedures outlined in Part I, Article 4.

b. If the applicant is an existing program new to rate setting:

(1) The agreement and rate shall be executed under a contract expiring on June 30 for special education service providers, or at the end of the quarter nearest a 12-month period of time from the "effective date" of the initial contract for nonspecial education service providers. The rate shall be determined using utilization rates as specified in Part I, Article 9.

(2) For the second year of operation, the service provider shall submit an Alternate Year Service Provider Application unless a rate exception is requested, in which case the service provider shall follow the procedures outlined in Part I, Article 5.

(3) Thereafter, the service provider shall follow the procedures outlined in Part I, Article 4.

§ 1.8. The rate negotiator shall review the items below, notify the service provider upon receipt of completed items, and a rate shall be negotiated up to the predetermined maximum percent increase allowed. The appropriate agencies as well as the service provider shall be notified of the approved rate.

The following are the requirements for subsequent approvals.

1. Full negotiation.

Rates for service providers shall be fully negotiated every two years at which time the service provider shall be required to submit the following items.

a. A completed Service Provider Application.

b. A program narrative whenever a change in the program has occurred or is proposed.

c. A detailed audited financial statement audited by an independent certified public accountant for the program.

d. A Statement of Compliance certifying that the

service provider complies with the Obligations of Service Providers.

e. A daily census for basic services. Also to include an explanation of changes in planned or licensed capacity which have occurred since the last negotiation or other appropriate data that accurately reflect services provided by the facility.

f. The average length of stay for service recipients enrolled during the most recently completed year.

2. Alternate Year Service Provider Application.

For the year when the full Service Provider Application is not required, the Alternate Year Service Provider Application must be submitted.

§ 1.9. An out-of-state facility applying to a department for approval as a service provider shall be required to submit the name, address, and telephone number of the home state negotiator, a copy of the letter of acceptance or approval of the rate from the home state, and an independent certified audit, if available. In the absence of an approved rate from the home state, a copy of the contract between a public agency which purchases service and the service provider shall be acceptable as documentation of the [state rate].

Out-of-state facilities that do not have an approved rate with a public agency in their state shall be required to comply with the requirements [of for] in-state providers. Fees charged may not exceed the Virginia approved rates.

§ 1.10. Mid-contract period rate change requests.

A. A service provider may request a mid-contract period rate change under the following circumstances [: :]

1. If the program undergoes a complete reorganization of its administration, budget, and services, a modification of rates may be requested. In this case, a complete Service Provider Application shall be completed and submitted.

2. If the service provider has added services or staff, a modification of rates may be requested. This request shall be documented and is subject to later audit. The service provider shall submit written information from the Service Provider Application to the appropriate department. The request shall be considered in the same manner as other rate setting applications.

3. Routine or general program improvement costs and general cost of living increases that do not meet the above specifications shall not result in interim rate changes.

4. All materials justifying the requested interim rate change shall be submitted to the department 90 calendar days prior to the planned effective date of

the rate increase.

B. The departments may initiate an interim rate change under the following conditions [: :]

1. If it is determined that the service provider's current operations are significantly different than those described within the rate setting application.

2. If it is determined that the service provider exceeds the previously declared planned capacity.

Article 5.

Predetermined Maximum Percentage Rate Increase and Exceptions.

§ 1.11. A different predetermined maximum percentage rate increase is calculated annually by the departments for residential special education schools or day special education schools and residential providers of child care. The departments shall issue a memorandum advising service providers of the increase [as soon as possible by no later than January 1].

A. The components and guidelines for calculating the predetermined maximum percentage increase follow:

1. Components.

a. Nonpersonnel costs factor is determined by multiplying 85% times the average annual change in the Consumer Price Index (All Urban Consumer Price Index, U.S. City Average, all items) issued by the U.S. Department of Labor times the average operational nonpersonnel portions of the facilities' budget (30%). The state fiscal year immediately preceding the rate application deadline is the period used to determine the annual change in the Consumer Price Index.

b. Personnel costs factors are:

(1) Instructional personnel factor is the Commonwealth of Virginia average increase in teacher salary scale for the current year multiplied by the "average" portion of total salary costs assigned to certified teachers in children's facilities.

(2) Child care personnel factor is the actual prior year salary percentage increase for state employees multiplied by the "average" portion of total salary costs assigned to child care staffing in children's facilities. The actual prior year's percentage increase for state employees shall be based on any cost of living adjustment granted to all state employees. It shall be exclusive of state employees' salary increases related to proficiency, performance or other forms of incentive compensation.

2. Calculation.

Final Regulations

a. The sum of the instructional personnel factor and child care personnel factor is multiplied by the "average" nonoperational, personnel portion of the budget (70%).

For purposes of this calculation the percentage of instructional personnel is:

- (1) 20% - residential school;
- (2) 55% - day school;
- (3) 0% - residential providers of child care.

For the purposes of this calculation the percentage of child care personnel is:

- (1) 80% - residential schools;
- (2) 45% - day school; and
- (3) 100% - residential providers of child care.

b. The sum of the percentage nonpersonnel costs and the percentage personnel costs (as described above) yields the predetermined maximum percentage increase in a given year.

B. Exceptions shall be considered for rate increases greater than the predetermined maximum in the following cases:

1. Program changes.

a. The applicant's statement of philosophy/mission shall change. This change shall be recorded and approved in the minutes of a regular meeting of the facility's governing body. A copy of the minutes for this meeting shall be submitted as documentation.

b. The identification of the recipients of the facility's services must change in at least one of the following ways:

- (1) The characteristics of the service recipients.
- (2) Characteristics unacceptable in service recipients.
- (3) The ages of the service recipients.

c. The quality, quantity, or ratio of executive, professional, and/or instructional staff shall change:

(1) In those cases in which the total number of the combined staff positions does not change, (i) there shall be a change in the professional classifications and in the corresponding hiring qualifications for at least 20% of combined staff positions, and (ii) there shall be a change in the ratio of professional staff to service recipients.

(2) In those cases in which the total number of combined staff positions change, the ratio of the combined staff positions per service recipient shall remain the same or increase.

(3) Regardless of which of the above two options is selected, the changes in the staff positions and/or classifications shall be directly related to changes in the statement of philosophy/mission and to changes in the identification of acceptable service recipients.

2. Facility relocation.

To qualify as a facility relocation and be considered for a rate exception increase above the predetermined maximum, and/or the inclusion of interest expense above the applicable limits, the following shall occur:

- a. Relocation of the facility to a new site.
- b. Relocation within the currently leased or owned boundaries of the present site.
- c. Purchase of the currently leased facility occupied by the program.
- d. Documentation of the impact of relocation on the budget by providing at least the following information:

- (1) The reason for the relocation.
- (2) The total cost of the relocation.
- (3) The identification of all revenue sources and the amount of each revenue source to be used to pay the relocation costs.
- (4) The identification of all expenses by line item that will change as a direct result of the relocation.
- (5) The amount of increase by line item attributed to relocation.
- (6) The date by which the relocation will be accomplished and a schedule reflecting the approximate dates of payment of the relocation costs.

3. Licensing/approval change.

To qualify for a licensing/approval change and be considered for a rate increase above the predetermined maximum, all of the following shall occur:

a. The licensing/approval change and/or requirements shall be the direct result of deficiencies in the program, personnel, facilities, or operations as identified by a duly authorized licensing/approval agency.

b. The service provider shall comply with the licensing/approval change and/or requirements in order to keep and maintain the license.

c. The service provider shall document the necessity of the licensing/approval change by providing the following information:

(1) The total cost attributable to the licensing/approval change.

(2) The identification of all expenses by line item that will increase as a direct result of the licensing/approval change.

(3) The amount of change by line item attributed to the licensing change.

4. Nonfee revenue loss.

To qualify for a nonfee revenue loss and be considered for a rate increase above the predetermined maximum, the following shall occur:

a. A copy of the notice from the agency/individual controlling the funds that a reduction will be made, when it will be made, and how much reduction will be made shall be provided to the appropriate department.

b. The service provider shall document the impact of the nonfee revenue loss on the budget and program by providing the following information.

(1) The source of the revenue loss and whether the source is internal (revenue from a related organization) or external.

(2) The total cost attributed to the nonfee revenue loss.

(3) The identification of all expenses by line item that will increase as a direct result of the nonfee revenue loss.

(4) The amount of change by line item attributed to the nonfee revenue loss.

5. Newly opened programs, second [or third] year.

Newly opened programs beginning their second [or third] year of operation may qualify for a rate increase above the predetermined maximum percentage increase when it can be demonstrated that rates established for the initial year of operation are insufficient to meet approved allowable costs.

6. Addition of programs for compensation benefits.

To qualify for additional programs for compensation benefits and be considered for a rate increase above

the predetermined maximum, all of the following shall occur:

a. It shall be demonstrated that the claimed expense is a compensation feature not previously budgeted in other cost categories or is a compensation feature that upgrades a current benefit.

b. The expense shall conform to Part IV, Article 2.

c. The need for the change shall be clearly documented.

7. State, local and federal mandates.

State, local and federal mandates (legislation/regulation) that would increase costs, over which the program has no control, are considered a legitimate basis for an exception request. The request shall be clearly documented.

8. Salary restructuring.

To qualify for a salary restructuring exception and to be considered for a rate increase above the predetermined maximum increase, all of the following shall occur:

[a. It shall be demonstrated that the applying facility's salary scale is below the salary scale for public employees with comparable credentials, experience, duties and responsibilities in the city or county where the facility is located or in regional public institutions serving that locality. For purposes of this exception, the salary scale is subject to any maximum allowable experience credit provision of the city or county where the facility is located or regional public institutions serving that locality. a. It shall be demonstrated that the applying facility's teacher salary scale does not exceed the average salary for instructional personnel used in computing the instructional personnel component of state basic aid as used in the annual appropriations act. Also, for noninstructional personnel it shall be demonstrated that the applying facility's salary scale does not exceed the salary scale for public employees with comparable credentials, experience, duties and responsibilities in public institutions in the region in which the facility is located. For purposes of this exception, the salary scale is subject to any maximum allowable experience credit provision of the public institutions in the region in which the facility is located.]

b. The exception request shall occur during the regular rate negotiation period (not mid-year).

c. The program shall have been in existence at least two years prior to the implementation of this regulation.

Final Regulations

d. Facilities granted exceptions under this provision shall reflect, in their next audit, the use of these funds for salary increases at the approved level. Failure in this regard shall result in an appropriate downward adjustment in the facility rate for the next rate year.

C. In addition to the requirements outlined in Part I, Article 5 the following apply to rate exception requests:

1. Service providers are encouraged to notify local agencies of proposed rate exceptions prior to submission of the Service Provider Application.

2. Substantial increases in line items that are not associated with the rate exception request shall be examined closely and may not be allowed.

3. Full documentation required for consideration of one or more of the rate exceptions listed above shall be submitted to the appropriate department along with the Service Provider Application.

4. For a program change rate exception request, a full Program Narrative shall be provided detailing the difference between the old and new program.

5. Requests for rate exceptions shall be presented to the Interdepartmental Rate Review Panel. The panel shall review the proposal and other available information and make recommendations to the appropriate department.

6. The service provider shall be notified in writing of the decision of the department.

7. For a program change rate exception request, organization charts for both the existing and proposed program shall be submitted.

Article 6.

Interdepartmental Rate Review Panel.

§ 1.12. The Interdepartmental Rate Review Panel shall be involved in the rate setting process for new programs, rate exception requests, interim rate increases or other applications a department wishes to present to the Interdepartmental Rate Review Panel. The guidelines for it are:

1. Membership.

a. Service provider representatives on the panel should be full-time employees of a currently approved facility.

b. The Interdepartmental Rate Review Panel shall consist of at least four representatives from the private sector.

2. Schedule.

Meetings of the panel shall be held at least quarterly.

3. Notification.

The department bringing an issue to the Interdepartmental Rate Review Panel shall be responsible for notifying the service provider of the date of the panel meeting.

4. Function.

The Interdepartmental Rate Review Panel shall be an advisory body whose functions are to:

a. Review Service Provider Applications for all rate exception requests and initial approvals.

b. Review other services and fiscal materials as requested in writing by service providers. (Requests by special education service providers shall be sent to the Director of Special Education Administration and Finance of the Department of Education. Requests by nonspecial education service providers shall be sent to the Supervisor, Purchase of Services Unit, of the Department of Social Services.)

c. Review service and fiscal year materials as requested by department negotiators.

d. Make recommendations to the department of the appropriate action to be taken.

e. Make recommendations to the department concerning future appointments of service providers to serve on the panel.

Article 7.

Obligations of Service Providers.

§ 1.13. In order to establish and maintain an approved rate, service providers must comply with the following provisions:

A. Service Provider Application and deadline requirements are as follows:

1. Application requirements.

A full Service Provider Application shall be submitted to the appropriate department biennially. In alternate years, the Alternate Year Application (short form) is required.

2. Deadlines.

Service providers negotiating rates with the Department of Education shall submit their rate applications by November 1 of each year. Applications of service providers negotiating rates with the Department of Social Services are due at least four months prior to the expiration date of the current

contract.

B. Audit report requirements are as follows:

1. Independent audit.

Detailed financial statements audited by an independent certified public accountant are required annually to obtain an approved rate. For public agencies, an annual audit by a governmental unit not under the direct control of the agency being audited shall meet the "Independent" criterion as long as sufficient data are provided to reflect clearly the activity of revenue and expense.

2. Accrual basis accounting.

All audited financial statements shall be reported on the accrual basis of accounting. This accounting method is in keeping with generally accepted accounting principles and will alleviate many of the distortions in revenue and expense that occur due to differing accounting methodologies.

A waiver of the accrual basis reporting requirements may be requested if a service provider feels the requirement will place undue burden on the organization because of reporting requirements to other funding agencies, for example, a city, county, or state agency. If a waiver is requested, it shall be made in writing to the department responsible for the rate negotiations before the audit is actually begun. The request shall include the following:

- a. A statement from the funding agency setting forth the audit reporting required.
- b. A statement from the service provider describing the type (fee-for-service vs. grant) and the amount of that funding provided.

The request for a waiver shall be evaluated by the department responsible for negotiations to determine if the waiver request is acceptable. The service provider shall be notified of the findings in writing.

3. Segregation of fee-for-service and nonfee-for-service revenue.

All service providers shall report revenue in a minimum of two categories. These categories are fee-for-service and nonfee revenue. Fee-for-service revenue is that revenue received on behalf of a specific client for services provided to that client from a government agency or other party.

4. Functionalized reporting of expenditures and revenue by multiple program service providers and service providers with optional services. (See Appendix II for example). All audited financial statements submitted by service providers who operate multiple

programs or offer optional services shall contain a reporting of expenditures and revenue on a functional basis by program and optional service.

A program is a set of basic services for a defined population group. For example, a service provider sells services for two distinct populations, for clients who are classified as mentally retarded and a second population identified as seriously emotionally disturbed. The services provided to the mentally retarded population are special education, counseling, room and board, and transportation. The services provided to the seriously emotionally disturbed population are socialization and recreation, counseling and treatment, and room and board.

For functional reporting purposes, the four services provided to the mentally retarded population compose a program and the cost of providing these services may be combined and reported as one program. The three services provided to the seriously emotionally disturbed population would be combined and reported as a separate program. Services that are considered optional shall be reported as a separate program.

In order to minimize misinterpretations regarding functional reporting by program and optional services, the service provider is requested to contact the department responsible for the negotiations to discuss the appropriate program reporting format for that organization. This should be done prior to the auditor beginning the audit work.

The functional reporting required of all optional service and/or multiple program service providers may be accomplished by one of the following:

- a. A service provider whose accounting records are maintained so the auditor can render an opinion on a program functionalized statement of revenue and expense may elect to fulfill the functional reporting required within the full audit.
- b. Those service providers who do not maintain their accounting records on a functional program basis can meet the requirements by including this information as "other financial information" for which the auditor renders an opinion as appropriate. Furthermore, service providers who do maintain functional accounting records may also elect to report revenue and expenses in a supplemental format.

This presentation is intended to be a less costly alternative to having a full scope audit performed on a program basis. In this type of reporting the auditor would express his opinion on the basic statements including a nonfunctionalized statement of revenue and expense.

Attached to these basic statements would be a

Final Regulations

functionalized statement of revenue and expense. This statement would not have been subjected to the same level of auditing procedures as the basis statements, and therefore, no opinion would be expressed on this supplemental statement. The auditor would prepare the supplemental statement in a manner consistent with previous reportings and note any variations. He would not examine in great detail the allocation of revenue and expense items to the various programs to determine their validity.

Finally, as an alternative to having the auditor prepare the supplemental statement, the service provider may perform the allocations to the various programs using the audited revenue and expenses and have the auditor review the work including the general allocation methodology for consistency and reasonableness.

Under either method of supplemental reporting, auditor-prepared or service provider-prepared, the basic audit shall include this supplemental reporting and state that it is a supplemental report not subjected to the same level of auditing procedures.

C. Accountability requirements are as follows:

1. General.

a. The facility shall maintain written documentation of services actually provided to each service recipient.

b. The service provider shall comply with applicable state and federal requirements.

2. Fiscal accountability.

a. The service provider shall maintain an accounting system and supporting records adequate to assure that claims for funds are in accordance with applicable state and federal requirements.

b. The service provider records shall reflect all direct and indirect costs and income from all sources.

c. The service provider shall retain all financial books, records, and other documents pertaining to finances for five years after final payment, unless necessary for purposes of an unresolved audit and/or if there is any litigation, claim, negotiation, or other action involving the records which had been started during the five year period. In this event, the records shall be maintained until the issues are resolved.

d. The service provider shall maintain records on any donations or agreements with governmental agencies, departments, etc., for the transfer of possession and/or title to property, plant, and

equipment to the facility.

e. The service provider shall maintain an internal budget.

f. The service provider shall have an independent audit made annually and the report shall be submitted to the appropriate department annually.

g. If the service provider is organized as a nonprofit entity, it shall provide the authorization number issued by the Internal Revenue Service and the most recent copy of the Form 990 tax return which has been filed, unless an exemption for filing Form 990 has been granted.

h. Bank accounts shall be reconciled monthly and maintained on file for review.

i. The service provider shall have written policies and procedures regarding reimbursement for mileage and travel expenditures and money out of pocket.

j. If a petty cash account is maintained, then reimbursement to the petty cash account shall be [~~accompanied~~ accomplished] by issuance of a check, not from cash receipts on hand.

k. Security of cash shall be verified by:

(1) Recording receipts as soon as received.

(2) Making intact deposits of receipts of cash as soon as possible following receipt.

l. Security of disbursement of funds shall be verified by:

(1) Using only prenumbered checks.

(2) Establishing and adhering to a limit on the amount of a petty cash account.

(3) Establishing and adhering to a limit on the amount of individual disbursements of petty cash.

m. All rental agreements shall be maintained in a current status as to the period of the agreement and the rate and amount of payment. They shall include a list of major provisions of the agreement to include responsibilities of the landlord and the tenant.

n. In the event depreciation is claimed as an expense, an itemized listing of depreciable assets shall be maintained reflecting date of purchase, description of asset, purchase price, salvage value, and the expected life of asset in years.

Article 8. Employee Compensation.

§ 1.14. Salaries and fringe benefits shall be examined in relation to employee compensation currently being paid in comparable settings in Virginia. Employee compensation that appears excessive shall be questioned and additional documentation may be required.

Article 9. Utilization Rates.

§ 1.15. Utilization rates are used as one factor in calculating the unit cost for a service. The utilization rate is determined by dividing the level of enrollment by the [license licensed] or planned capacity. This is a key element in calculating a rate.

A. Rates shall be set on a percent of licensed capacity (planned capacity for day school).

1. If a facility does not have a licensed capacity established, it shall determine its planned capacity for the year for which rates are being established.

2. If a facility has a licensed capacity which is inappropriate, given the intent of the program, it may request the use of a planned capacity for rate-setting purposes.

3. Variations in planned capacity from historical enrollment data shall be explained in writing and included in the Service Provider Application.

B. Utilization rates for service providers shall be based on licensed or planned capacity as follows:

1. Initial approval.

Utilization rates for service providers requesting initial approval as a newly opened program shall be standard, based on licensed or planned capacity as follows:

Capacity	Utilization Rates for Negotiations
16 and under	75% of Capacity
17 and over	80% of Capacity

These rates shall be for the first contract period for a newly opened facility. At the end of this period, the service provider shall be required to comply with the utilization rates that follow.

2. Subsequent approval.

After the first year of operation or contract period, the service provider's service rates shall be based on the previous year's actual utilization rate or the expected utilization for the upcoming year, whichever is greater, minus 5%, down to the following

minimums:

Capacity	Utilization Rates for Negotiations
16 and under	81% of Capacity
17 and over	85% of Capacity

C. A service provider may exceed its previously declared planned capacity only in accordance with the following conditions:

1. The service provider shall give the appropriate department 30 administrative work days advance notice of the intent to exceed planned capacity. This notice shall be given by certified mail to the rate negotiator.

2. The departments reserve the right to renegotiate the approved rate on the basis of the increased capacity.

Documentation of conditions one and two is required and should be submitted in writing with the application. The departments reserve the right to present any variations that they question to the Interdepartmental Rate Review Panel.

D. Exceptions to the above utilization rates:

1. The utilization rate requirement shall be reduced [by] 5% if the facility's program intent is geared toward a turnover of placements that is 30 days or less, for example, an emergency shelter facility. In this case, rates shall be negotiated as follows:

Capacity of 1-16	76% of Capacity
Capacity of 17 and over	80% of Capacity

2. The utilization rate requirement shall be reduced by 3% if the facility's program intent is geared toward a turnover of placements that is one to six months (applies to education programs in psychiatric facilities). In this case, minimum utilization rates will be as follows:

Capacity of 16	78% of Capacity
Capacity of 17 and over	82% of Capacity

3. Public facilities.

The 5% allowance for utilization does not apply to public facilities.

Article 10. Interdepartmental Rate Review Appeals Panel and Formal Due Process Hearing Procedures.

§ 1.16. The following section describes the appeals procedure available to aggrieved parties.

Final Regulations

A. The procedures for selecting the Interdepartmental Rate Review Appeals Panel are as follows:

1. The Interdepartmental Rate Review Appeals Panel is composed of three members who are not members of the Interdepartmental Committee on Rate-Setting for Children's Facilities. Nominations for membership on this panel are received from:

- a. Service providers of in-state licensed children's facilities.
- b. State agencies (Corrections, Education, and Social Services).
- c. Local public education agencies, local social services agencies and local court service units.

2. The actual representatives in each of the three categories are chosen at random by the Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities according to administratively established procedures as follows:

a. Service provider.

Names are drawn at random from a list of in-state children's facilities. A service provider may not serve on both the Interdepartmental Rate Review Panel and the Interdepartmental Rate Review Appeals Panel.

b. State agency representative.

(1) A specific state agency is selected at random (Corrections, Education, and Social Services).

(2) The state representative cannot be selected from those who are actively participating in the rate-setting process.

c. Local agency representative.

A specific local school district, a local social services agency or a court service unit to be selected at random. The chairman negotiates with the specific local agency for a representative.

d. One alternate is available.

This is a disinterested private citizen.

e. Membership is rotated and staggered.

f. One member is appointed initially for a two-year term, the other two members for one-year terms.

A member shall serve for only one term regardless of whether that term is a one-year or a two-year term.

g. The Interdepartmental Rate Review Appeals Panel selects its own chairman.

B. The procedures followed in conducting interdepartmental rate review appeals and formal due process hearing are as follows:

1. Initiating appeals.

A request from any party to appeal a decision pertaining to the Interdepartmental Committee on Rate-Setting for Children's Facilities shall be in writing and addressed to the Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities.

2. Reasons for appeals.

The appellant shall define the reason for the appeal as follows.

- a. Allowable rates.
- b. Allowable costs.
- c. Denial of waivers or exceptions to maximum percentage increase.

3. Interdepartmental Rate Review Appeals Panel time frames are as follows. Parties wishing to appeal a decision in the rate-setting process shall register the request for a review with the Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities.

a. No later than 15 working days after the date of the letter in which the agency notifies the service provider of the rate;

b. The Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities shall notify the Chairman of the Interdepartmental Rate Review Appeals Panel within three days of the receipt of the request that a review has been requested;

c. No later than four working days after the notification of a request for a review, the Chairman of the Interdepartmental Rate Review Appeals Panel shall notify the parties of the date, time and site of the review;

d. No later than 20 working days after the notification of the request for the Interdepartmental Rate Review Appeals Panel the hearing shall take place; and

e. No later than 25 working days after the notification of the request for the review, a written decision from the Interdepartmental Rate Review Appeals Panel shall be rendered. The decision of the Interdepartmental Rate Review Appeals Panel is final unless appealed for a formal due process

hearing.

4. Formal due process hearing time frames.

a. No later than 15 working days after the date of the Interdepartmental Rate Review Appeals Panel decision, any requests for a formal due process hearing shall be received by the Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities.

b. No later than three working days after the receipt of the request for a formal due process hearing, the Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities shall notify the parties of the name of the hearing officer.

c. No later than four working days after the appointment as hearing officer, the hearing officer shall notify all parties of the date, time and site of the hearing.

d. No later than 20 working days after the receipt of the request by the Chairman of the Interdepartmental Committee on Rate-Setting for Children's Facilities for a formal due process hearing, the formal due process hearing shall have taken place.

e. The format, procedure and guidelines to be followed in the formal hearing shall conform to § 9-6.14:12 of the Code of Virginia.

f. No later than 25 working days after the receipt of the request by the chairman for a formal due process hearing, a written decision shall have been rendered by the hearing officer.

5. Expenses out-of-pocket.

a. Travel, lodging, meals and other necessary expenses associated with the Interdepartmental Rate Review Appeals Panel are shared by the Departments of Corrections, Education and Social Services.

b. The costs of the formal due process hearing, for example, hearing officer billable time, secretary or transcriber, and travel are shared by the appellant and the three state agencies affected, 50% appellant/50% three agencies.

c. Failure of a service provider to pay its legitimate share of the cost of the hearing shall result in a delay in approval of rates for the subsequent year.

6. Hearing officers.

a. Hearing officers shall be appointed from the Supreme Court list;

b. Hearing officers shall only be eligible after having received appropriate training; and

c. Hearing officers shall be disinterested.

PART II. PURCHASABLE SERVICES.

Article 1. Basic Services.

§ 2.1. Basic services are those services which define the essence of the general program offered by the facility. These services shall be available to all individuals enrolled in the general program and shall be delivered directly or indirectly to all of those service recipients.

Most facilities have a single basic services rate. However, some service providers may establish multiple rates for basic services offered to discrete populations of children served. A basic rate may be established for a vocational educational program.

Article 2. Optional Services Available.

§ 2.2. A facility may offer services in addition to those included in the basic service to meet the specific needs of certain children. A portion of the optional services available, which impact all children, may be assigned by the service provider to the basic program. An example for counseling services follows:

1. Basic services.

Included in basic services costs:

a. Services by qualified visiting teachers, social workers, psychologists, guidance counselors, or other qualified personnel when provided routinely as an integral part of the program. (NOTE: Medically prescribed counseling or psychotherapy is specifically excluded from consideration as a service for which a rate shall be established).

b. Crisis consultation is available to all service recipients on an individual basis as needed.

2. Optional service.

Include as an optional service regularly scheduled counseling provided differentially to specifically identified service recipients on a continuing basis.

Article 3. Service Requirements.

§ 2.3. Basic and optional services provided to a service recipient shall be specified in the Individualized Education Program and/or Individualized Service Plan as determined by the placing agency.

Final Regulations

Article 4. Services.

§ 2.4. Unless otherwise noted, the following services are available for purchase (reimbursement) by the Departments of Social Services, Education, and Corrections (see key at the end of this section for which department purchases the service):

1. Adoption services (2) (3).

These services include the combined social and legal processes which enable children for whom the goal is adoption and for whom all parental rights should be or have been terminated to become permanent members of a new family unit. Purchasable components include preplacement, placement, and post placement services for children in the custody of a local social services agency.

2. Audiology services.

These services include: (i) identifying and evaluating children with hearing loss; (ii) determining the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; (iii) selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification; and (iv) counseling and guidance of pupils and parents regarding hearing loss.

3. Case management services.

These services include the planning, management, monitoring, and evaluation of services that are integral but subordinate services necessary for the effective delivery of primary services. Components of case management include: foster parent recruitment, training, and follow-up; behavioral assessment and testing; and case planning for independence and/or emancipation.

4. Counseling services (1).

These are services provided by qualified visiting teachers, social workers, psychologists, guidance counselors, or other qualified personnel to children whose Individualized Education Program specifies the need for special education.

5. Counseling and treatment services (3).

These include the provision of adequate and appropriate therapeutic services to individuals and/or families suffering from emotional or psychiatric problems. These services include evaluation and diagnosis of problems and development of treatment goals and strategies which are designed to ameliorate the identified problems. The service may include only psychological and psychiatric counseling which is not allowable under Title XIX (Medicaid).

6. Diagnostic and evaluative services (1).

These services include evaluation and diagnosis of problems of handicapping conditions related to the determination of eligibility for special education.

7. Drug services (3).

These services include medical/remedial services, pharmacological intervention, social, education, and rehabilitative services as well as the utilization of psychological techniques.

8. Education and training services (3).

These services include arranging for and the provision of formal or functional education and training directed toward improving individual knowledge and skills. These services exclude education and training related to employment for the handicapped child and special education.

9. Emergency shelter services (2) (3).

These services include immediate placement and supervision provided in an emergency shelter when removal of a child from a hazardous situation is necessary. The placement decision shall be made by an agency authorized by state law to place children.

10. Employment services (3).

These include the provision of services to individuals who assist in retaining, regaining, or securing full or partial employment, training, or education leading to employment appropriately related to the individual's potential. Components include vocational evaluation and training, counseling, job placement, and work adjustment.

11. Medical/remedial services.

These services include medical and remedial care (other than family planning), not available under Title XIX (Medicaid), that is deemed to be an integral but subordinate service of a program and is not provided merely to correct a medical condition.

12. Occupational therapy.

This service includes therapy which:

- a. Improves, develops, or restores functions impaired or lost through illness, injury, or deprivation;
- b. Improves ability to perform tasks for independent functioning when functions are impaired or lost; and
- c. Prevents, through early intervention, initial or future impairment or loss of function.

13. Parent counseling.

This service assists parents in understanding the special needs of their child, providing parents with information about child development, crisis counseling for parents, and interpretive conferences.

14. Personal adjustment counseling.

This service includes professional guidance, consultation, and problem solving for the child related to family and personal adjustment problems, values clarification and personal effectiveness.

15. Physical therapy.

This service includes physical therapy provided by a qualified physical therapist upon medical referral and direction; and the evaluation, testing, treatment, reeducation and rehabilitation by physical, mechanical, or electronic measures and procedures to individuals who because of trauma, disease or birth defect present physical and/or emotional disorders. The term "physical therapy" does not include the use of Roentgen rays and radium for diagnostic or therapeutic purposes or the use of electricity for shock therapy and surgical purposes, including cauterization.

16. Psychological services.

These services include:

- a. Administering psychological and educational tests and other assessment procedures;
- b. Interpreting assessment results;
- c. Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- d. Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews and behavioral evaluations; and
- e. Planning and managing a program [or of] psychological counseling for children and parents.

17. Recreation services.

These services include activities which provide active participation in constructive social experiences and in leisure-time opportunities.

18. Respite care (2) (3).

This service includes substitute parental care for the mentally retarded, cerebral palsied, epileptic and autistic individuals for temporary periods when care is needed because of the absence of the parent/guardian.

19. Room and board.

This service includes (exclusive of emergency shelter) the provision of shelter (including related cleaning and household expenses), a full nutritional regimen (usually three meals a day), basic supervision, clothing, personal care items, school supplies, and spending allowance. In residential treatment programs offering special education for handicapped children, clothing and spending allowances shall be separately identified from other room and board costs and are not reimbursable to the local education agencies by the state.

20. Services to specified disabled individuals (3).

These are coordinated and comprehensive services which address the problems of the autistic, cerebral palsied, epileptic, mentally retarded, deaf or blind individual. Components of this service are training to maximize independence, evaluation, instruction, social/emotional support and training of the handicapped child.

21. Special education (1).

These services include specifically designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

- a. The term includes speech pathology, if the service consists of specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child.
- b. The term also includes vocational education if it consists of specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child.

22. Special foster family home services.

These services are provided to an individual living in a foster family home. These shall relate to a specific need and shall be distinct from the basic responsibilities of providing board and care including parenting for children. The foster family shall be qualified by virtue of training and experience to provide the special [service services] .

23. Speech therapy.

This service includes:

- a. Diagnosis and appraisal of specific speech or language disorders;
- b. Provision of speech and language habilitation services or prevention of communicative disorders;

Final Regulations

and

c. Counseling and guidance of parents, children, and teachers regarding speech and language disorders.

24. Transportation

This service includes transporting the service recipient to and from needed community resources and facilities other than travel to and from work, school, or for travel to medical care payable under Title XIX (Medicaid).

[25. Other.

Service providers may apply to their negotiating department for approval of services as may meet the requirements of federal and state laws which provide for reimbursement of these services to children and their families.]

KEY:

(1) Not for purchase [~~by~~ through] Department of Social Services.

(2) Not for purchase [~~by~~ through] Department of Corrections.

(3) Not for purchase [~~by~~ through] Department of Education.

PART III. REVENUES AND EXPENSES.

Article 1. General.

§ 3.1. Total cost is the sum of the allowable direct and indirect costs assignable to the service/contract less any applicable revenues. Any generally accepted accounting method of determining or estimating cost that is equitable under the circumstances may be used if it is applied consistently and appropriate supportive documentation is maintained.

The forms in the application package contain reporting categories such as employee services, contract personnel services, building occupancy, travel and supplies. Allowable and unallowable costs are to be reported within each category. Unallowable costs are not considered in determining total costs in calculating the rate.

Particular items of cost not mentioned above may be determined allowable or unallowable based on the treatment provided for similar or related items of cost.

[Private nonprofit facilities are encouraged to raise funds through general fund raising campaigns. These funds may be restricted for purposes designated by the board of directors of the program. Any restricted funds shall not be

used to offset the cost of operating the program. Unrestricted funds shall be used to offset the cost of operating the program in determining reasonable rates.]

§ 3.2. Individual expenditure items are examined for allowability according to the following criteria:

1. Reasonableness.

Costs not exceeding that which would be incurred by an ordinarily prudent person in the conduct of competitive business may be considered reasonable as follows:

a. The cost is generally recognized as ordinary and necessary for operation.

b. Restraints and requirements imposed by generally accepted sound business practices, arms-length bargaining, and federal and state laws and regulations are used.

c. The action is in line with those which a prudent service provider would take concerning its responsibility to the organization, the public, the government, its employees, its clients, etc.

d. There are no significant deviations from the established practices of the service provider.

2. Allocability.

Costs are assignable or chargeable to a particular cost objective in accordance with the relative benefits received as follows:

a. The cost is incurred specifically for the contract service.

b. Any combined costs can be distributed in reasonable proportion to the benefits received.

c. The cost is necessary to the overall operation of the service provider.

Article 2. Allowable Expenses.

§ 3.3. The following provides examples of particular expenses that are allowable provided they meet the criteria set forth in Part III, Article 1.

1. Bidding costs.

These costs are for the preparation of the bids and applications including scientific, engineering and cost data necessary to support the bid or application if they are incurred within the contract period. Any prior costs are unallowable.

2. Bonding costs.

These costs are assurances against financial loss due to theft, default, etc., and include such bonds as performance, bid, fidelity, etc. Allowable bonding costs are those which are required by the service provider in the general conduct of operations, providing the rates and premiums are reasonable under the [*circumstances*].

3. Civil defense costs.

These costs are undertaken for improvements on the service provider's premises in response to suggestions or requirements of civil defense authorities when they are allocated to all the work of the service provider. Capital assets obtained through civil defense costs shall be charged with depreciation or use charges along with other fixed assets.

4. Compensation for personnel services.

These costs are allowed to the extent that they are:

- a. Related to the program work;
- b. Reasonable for the services rendered; and
- c. Comparable to that paid for similar work in the labor market. Comparisons include salaries, wages, employees' insurance, vacations, holidays, sick leave, unemployment insurance, etc.

5. Capital expenditures.

These are the costs of equipment, buildings and building equipment repairs which materially increase the useful life or value of the buildings or equipment but only when the repairs are necessary to support the program. These costs shall be accounted for only through depreciation or use allowance as explained below.

6. Depreciation and use allowances.

This compensates the service provider for the use of buildings, capital improvements, and usable equipment on hand by either depreciation or use allowance, as follows:

- a. Depreciation is a charge to current operations which distributes the cost of fixed assets less a residual value over the estimated useful life of the asset, provided adequate records are maintained to account for fixed assets.

Where depreciation is used, adequate property records must be maintained reflecting acquisition costs, salvage value, estimated useful life and acquisition date. Assets acquired in prior years must be depreciated from their acquisition date.

- b. The use allowance method can be used by

service providers that do not have adequate records to use depreciation but have a reasonable and justifiable estimate of acquisition cost. Use allowance for buildings and improvements is to be computed with an annual rate not to exceed 2% of acquisition cost. Use allowances for equipment are to be computed with an annual rate not to exceed 6.667% of acquisition cost.

7. Dues and subscriptions.

Costs related to trade, professional, business and technical organizations and publications are allowable provided the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

8. Employee morale, health and welfare costs.

The costs of providing benefits to a service provider's employees to improve working conditions, employer-employee relations and/or employee morale and performance such as vending machines, canteens, dormitory services, etc., are allowable after deduction of any revenue received from these activities and provided the net cost is reasonable.

9. Fund raising expenses.

Costs which are directly attributable to contributions are allowable up to the amount of the related contributions.

10. Insurance.

Costs of insurance maintained by the service provider in connection with the general conduct of business are allowable provided the extent of coverage, rates and premiums are reasonable under the circumstances.

11. Interest costs.

Costs of interest are allowable to the extent that they are consistent with the provisions that follow:

a. General.

Necessary and proper interest on both current and capital indebtedness is an allowable cost. Reasonable finance charges and service charges on indebtedness are includable in determining these costs. To be allowable, interest shall be:

- (1) Supported by evidence that funds were borrowed and that payment of interest and repayment of the funds were required.
- (2) Identifiable in the service provider's accounting records and reported in audited financial statements.
- (3) Related to the reporting period in which the

Final Regulations

costs are incurred.

(4) Necessary and proper for the operation, maintenance, or acquisition of the service provider's program and/or facilities.

(a) Necessary means that the interest be incurred on a loan made to satisfy a financial need of the service provider and for a purpose directly related to the provision of the services for which rates are established.

(b) Proper means that the interest be incurred at a rate not in excess of what a prudent borrower would have had to pay in an arms-length transaction in capital markets when the loan was made.

b. Finance and service charges are those charges incurred by the lender related to the maintenance of records, collection of delinquent accounts, administration, etc., in addition to the charges for interest which a lending institution may include in the cost of a loan.

c. Determination of allowability.

(1) Working capital financing (current indebtedness) is allowable to the extent that it supports assets other than cash or cash-like items. Justification of interest rates on current indebtedness shall be provided.

The basis of allowable working capital financing is the average working capital for operating funds of the most recent audited year. Cash, bank deposits and marketable securities in excess of current liabilities is subtracted from average working capital in calculating the base amount for which interest on current indebtedness is allowed. The formula for determining the extent of allowable interest on current indebtedness is described in Appendix III.

(2) Capital asset financing interest expense is allowed on plant, property and equipment that is reasonably related to the operation of the service-providing facility. For assets acquired in the current year and thereafter, interest expense is allowable from the time the asset is placed into service. Disclosure of information related to capital financing arrangements is to be made on the form provided.

(3) Prior approval of the allowable interest costs related to new capital asset financing is required when the related total annual interest expense for the purchase exceeds \$3,000.

(4) Interest expense related to facility relocation is allowable to the extent the proceeds from the disposition of the facility being replaced are matched against the cost of the new facility. Fair

value of unused and unsold facilities being replaced is considered as proceeds in determining allowable relocation interest expense. Interest expense related to financing facility expansions is allowable when reasonably related to the program's growth and the obsolescence of existing facilities.

(5) Interest expenses associated with the purchase by a service provider of an existing leased facility which the service provider currently occupies is allowable providing that a long-term financial benefit can be demonstrated.

(6) The department reserves the right to disallow costs related to transactions which result in increased costs for facilities with no effect on the services and facilities involved, for example, refinancing.

(7) Lease agreements meeting the criteria for capitalization are treated as financed capital asset transactions and related interest expense is allowed provided other provisions related to interest expense and capital asset financing are met.

(8) Rent for lease agreements with related party lessors is allowable to the extent rent expense does not exceed cost of ownership. These costs include depreciation, interest expense, property taxes, maintenance and insurance related to the facilities but excluding unused space.

(9) Any prior revenue restrictions for interest expense are revoked or appropriate adjustments made such that revenue restrictions are not in place for allowable expenses included in the costs used to compute rates.

d. Related party interest expense.

Interest expense incurred on purchases of property from, and capital financing agreements with, related parties are allowable provided:

(1) There are no prior revenue restrictions for funds earmarked for capital expansion. If so, appropriate adjustments are required.

(2) Loan terms and purchase prices reflect those of comparable arms-length transactions.

(3) The service provider, if requested, provides a notarized statement from a licensed appraiser, in the community where the facility is located, attesting to the fair market value of the property, at the service provider's expense. The department reserves the right to obtain an independent appraisal of the market value of the property at its own expense.

(4) The transaction meets other criteria for

allowance of interest expense and capital asset financing, as described previously.

e. Allowable interest expense limits and inclusion in rates.

Interest expense shall be allocated to all services, excluding room and board, in an equitable manner.

f. Limit on interest.

Interest expense is allowable to the extent it does not exceed 3% of the total allowable operating costs (excluding interest) budgeted for the proposed rate year. To be allowable, interest expense shall meet the criteria for interest expense and capital asset financing described previously.

12. Labor relations costs.

Costs incurred in maintaining satisfactory relations between a service provider and its employees, such as management committees, employee publications, etc., are allowable when distributed over all activities of the service provider.

13. Maintenance and repair costs.

Costs necessary for the upkeep of property are allowable provided they do not add to the permanent value of the property or extend its useful life.

14. Material costs.

Costs of consumable supplies to carry out the programs are allowable. Any refunds, rebates, discounts, etc., shall be deducted from the cost. Net costs are allowable.

15. Meetings and conference costs.

Costs which include meals, transportation and facility rental incidental to [meeting meetings] and conferences with the primary purpose of dissemination of technical information pertaining to the program services are allowable.

16. Overtime pay.

Costs of overtime necessary to cope with emergencies, accidents, natural disasters or equipment breakdowns are allowable.

17. Patent and copyright costs.

Costs of preparing disclosures, reports and other documents required by the term agreement are allowable. Costs incurred in filing a patent application or copyright where title is not conveyed to the government are unallowable.

18. Professional service costs.

Costs of legal, accounting, scientific, and social work etc., not provided by employees of the service provider when the costs are reasonable in light of the services rendered, and when the services rendered are required and are outside the ability of the service provider personnel to perform, are allowable.

19. Public information costs.

Costs of publications used to describe the program to prospective patrons are allowable when reasonable and necessary.

20. Publication and printing costs.

Costs for reports to members and trustees and for taxing and regulatory bodies are allowable when allocated on an equitable basis over all service provider activities.

21. Rearrangement and alteration costs.

Costs which are ordinary and normal are allowable when they are allocated on an equitable basis over all service provider activities.

22. Recruitment costs.

Costs in excess of standard commercial employment agency rates are allowable when a service provider maintains its own recruitment program. Operation of an employment office, operation of aptitude and educational testing programs, travel costs of employees engaged in recruitment, help wanted advertising and reasonable travel costs of applications are allowable.

23. Relocation costs.

Relocation costs are allowable provided they are in accordance with established service provider policy, do not exceed the employee's actual expenses, and do not apply to a move for less than 12 months and provided that the following criteria are met:

a. Transportation of the new employee, the immediate family, and household and personal effects to the new location is included.

b. Incidental costs incurred by the employee and spouse in connection with acquiring a new home and lodging during the transition period do not extend to a period of more than 30 days.

c. Closing costs, brokerage fees, legal fees, appraisal fees, etc., incidental to disposition of housing, which do not exceed 8% of the sale price of the property, or cancellation of unexpired lease and disconnecting or reinstating household appliances and insurance against personal property damages in connection

Final Regulations

with relocation are allowable for existent employees but unallowable for newly recruited employees. Such items as loss on sale of a home, brokerage fees, etc., incidental to the acquisition of new housing, are not allowable.

24. Rental costs and related party transactions.

a. Rental costs of land, building and equipment and other personal property are allowable if the rates are reasonable in light of these factors; rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and the value of the facilities leased, options available, and other provisions of the rental agreement. In addition, 8 to 10% of the assessed value is the maximum allowance.

b. Rental costs specified in sale and leaseback agreements incurred by service providers through selling facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that these rentals do not exceed the amount which the service provider would have received had it retained title to the facilities.

c. Lease agreements meeting the criteria for capitalization are treated as financed capital asset transactions and related interest expense are allowed provided all other provisions related to interest expense and capital asset financing are met.

d. Related party rentals for land, building and equipment and other personal property are allowable only to the extent that these rentals do not exceed the amount the facility would have received had legal title to the facilities been vested in it. These charges shall not exceed the normal costs of ownership, such as depreciation, interest, taxes, insurance, and maintenance, provided that no part of these costs shall duplicate any other costs. Related parties are affiliated organizations including corporations, stockholders, board members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest.

e. The service provider is required to justify rent expenses in the application, documenting the following:

- (1) To whom the property is titled;
- (2) To whom the rent is paid;
- (3) The relationship between the service provider and the parties identified above;

(4) The appraised value of the property;

(5) The total square footage of the buildings used for program and nonprogram purposes, including vacant buildings, rented buildings, and/or all portions on which expenses are claimed; and

(6) A copy of the lease agreement.

25. Severance pay cost.

Severance pay cost is allowable when required by law, employee/employer agreement or established service provider policy constituting an implied agreement.

26. Taxes.

Taxes directly associated with the contract activities are allowable excluding any fines or penalties with the exception of federal and state income taxes.

27. Training and educational costs.

Costs including on-the-job training and part-time undergraduate or post graduate college level education, are allowable when they are related to the job requirements of the employee. Allowable costs are those for training materials, textbooks, fees and tuition charged by the institution, and compensation of employees for time spent attending classes during working hours (not to exceed 156 hours per year) if classes are not taught after working hours.

28. Transportation costs.

Costs for freight, express, cartage and postage relating to purchased goods are allowable.

29. Travel costs.

Costs including transportation, lodging, subsistence and incidental expenses of travel incurred by service provider personnel while on official business are allowable except that the difference between regular and first class air accommodations is unallowable. The maximum allowance for mileage is the current state-approved rate.

Article 3. Unallowable Expenses.

§ 3.4. The following are unallowable expenses:

1. Bad debts.

Uncollectible amounts, claims, and related legal expenses are unallowable.

2. Civil defense costs.

Donations to civil defense projects and funds are

unallowable.

3. Contingencies.

Costs related to any possible future event or condition as yet indeterminable in amount are unallowable.

4. Excess facility costs.

Costs for completely unused facilities in excess of the service provider's current need are unallowable.

5. Cost of losses.

Losses on any other government contracts are unallowable costs for this term agreement.

6. Organization costs.

Incorporation fees, attorney fees, brokers' fees, organizer fees and promoters' fees in connection with organization or reorganization are unallowable.

7. Other costs.

Costs listed in the allowable column with conditional requirements which are not met are unallowable.

8. Losses on disposition of fixed assets.

Losses on disposition of fixed assets are unallowable.

9. Public information service costs.

Costs of composition, printing, presswork binding, promotion, mailing and handling are unallowable except for reports to members, trustees, taxing and regulatory bodies.

Article 4.

Excluded and Included Revenue.

§ 3.5. The applicant shall identify revenue from all sources and this revenue shall be deducted from costs to establish a reasonable and competitive rate unless the revenue bears certain restrictions supported by documentation. The categories of restrictions allowed are as follows:

1. Donations to local social [service services], education, and corrections agencies.

This revenue is restricted by donor agreement to be used in supporting publicly funded service recipients;

2. Unallowable or excluded revenue.

This revenue is restricted for use in meeting costs which are excluded or unallowable in the rate setting process.

3. Endowment contributions.

Contributions which are restricted to placement into an endowment or trust fund, the principal of which is invested and not available to fund the [application's applicant's] operations. This is not to be confused with the income earned by investing and endowed principal which is not restricted unless the applicant has a well documented policy of restricting this income.

4. Fees for service.

This revenue is restricted to pay fees for specified clients or specified client groups. Revenue which is restricted to pay fees for a specified group of clients shall be traceable through the applicant's fiscal records to each individual client for whom a fee is paid. Funds used to pay a fee higher than that paid for the service through purchase of service shall be used to defray unit cost for the services provided. It may not be shown as "excluded and/or unallowable" on the application unless the service provider utilizes a fee scale and documents the fact that the amount in excess paid by some recipients is used to pay the balance due on lower scale recipients.

§ 3.6. All other revenue is considered general operating revenue and is used to defray the costs of providing services. This revenue is distributed over services in the ratio that each service's costs bear to the total costs of all service programs.

PART IV.

BUDGET AND REPORTING CATEGORIES.

Article 1.

General.

§ 4.1. The reference to forms and categories in this part are for the application package. The application package and instructions should be requested from the applicable department.

Article 2.

Revenue and Expense Categories.

§ 4.2. Revenue categories for use on Form B-1.

1. Contributions.

a. Contributions include only cash amounts for which the donor receives no direct private benefits. They are to be carefully distinguished from membership dues and program service fees, which represent payments made in return for direct, private benefits. All contributions received directly from individual donors and organizations and not resulting from a federated fund raising campaign are to be included in this classification. Amounts paid ostensibly as memberships, but which are in fact contributions, should be included here.

Final Regulations

b. The following are examples of sources of contributions to be reported in this category:

- (1) Individuals, including service provider's own board members, employees and their acquaintances;
- (2) Corporations and other businesses;
- (3) Foundations and trusts;
- (4) Contributions in response to door-to-door, mail, and other solicitations conducted by [a] service provider itself;
- (5) Fraternal, civic, social and other unrelated groups, for example, direct contributions excluding contributions raised through organized campaigns; and
- (6) Legacies and bequests.

c. In those cases where cash amounts received from one or more sources are significant in relation to the service provider's total direct support, these amounts should be reported by source. Not to be included is support provided by governmental agencies or other support discussed in the remainder of § 4.2.

d. Expenses incurred directly in soliciting contributions included here are to be shown in the appropriate expense categories, for example, compensation, supplies, and communications. Allowable fund raising expenses may not exceed the related contributions.

2. Special events.

The special events classification is provided to reflect support and incidental revenue derived from all of an organization's special fund raising events during the period of the report. These are affairs in which something of value is offered directly to participants for (or in anticipation of) a payment and a contribution adequate to yield revenue for the sponsoring service provider over and above direct cost and expenses. Dinners, dances, bazaars, card parties, fashion shows, and cookie, candy and greeting card sales are examples of special fund-raising events. With the exception of special situations noted below, telethons and other forms of TV and radio entertainment are not considered special events for public reporting purposes. Contributions received in response to appeals of these types are to be reported as ordinary contributions; and expenses attributable to the appeals as fund-raising [~~expense~~ expenses] .

3. Allocated by federated fund-raising organizations.

All allocations, appropriations and forms of financial support received or receivable from federated

fund-raising organizations are to be reported in this classification, for example, United Way of America.

4. Allocated by unassociated and nonfederated fund-raising organizations.

This category is provided for reporting support derived from fund-raising campaigns that is received from specialized fund-raising organizations that are not associated with federated fund-raising organizations. It is to be used to report allocations to a service provider which result from independent nonfederated campaigns for multiple service provider support, for example, those conducted by some large plants, by charity-support organizations [~~with~~ within] trade associations, by the Easter Seal Society, or by the March of Dimes.

5. Grants from governmental agencies.

All support and revenue that a service provider receives from governmental, federal, state, or local grants is to be reported in this classification. Governmental payments of service fees (third party payments) on behalf of individual clients should not be included here. Fees for service from governmental agencies should be reported as service fee revenue. The source and kinds of governmental support should be identified.

6. Membership dues - individuals.

This category is for amounts received by an organization for personal memberships that procure directly for the member, substantial private benefits commensurate in value with the amount of the dues. Substantial direct, private benefits include the use of service provider recreational, consulting and other facilities and services, the right to directly receive useful publications, or the enjoyment of a professional standing or other honor. Voting rights alone are not sufficient to qualify a payment as a membership payment. Newsletters shall, in many instances, also be rejected as an insufficient benefit to qualify as a payment as a membership. If a newsletter-type publication has no other function than to keep a member informed of general activities of an organization, its direct usefulness to the recipient is highly questionable. Contributing and sustaining memberships implicitly require scrutiny for proper reporting. Their distinguishing titles require that there be an alternative, regular membership and imply a difference in rates charged. If the regular membership qualifies as a time membership, as just defined, and if the benefits offered for contributing or sustaining membership are not greater, corresponding to the difference in charge, then the difference between the charge collected and the rate for a regular membership properly belongs in contributions. This caption is intended to include payments for bona fide membership benefits only. When the benefits are not

of a value reasonably related to the fee charged, the payment should be reported as contributions.

7. Total sales to public.

This includes sales of any goods to the general public, for example, manufactured products, vending machine profits, copying machine profits, etc.

8. Total investment income.

An organization may earn income from a variety of investments, both long and short term. All this income shall be reported.

9. Gain or loss on investment transactions.

This caption includes realized gains and losses on investment transactions.

10. Gain or loss on disposition of fixed assets.

This reporting category includes proceeds above the book value of assets sold and any losses on asset disposition transactions.

11. Other revenue.

This category is for revenue that is not otherwise classified. If the revenue of the service provider has been properly classified, very little should usually remain to be shown as other revenue.

12. Service fee revenue.

This category includes all fees paid by a governmental agency (third party payment on behalf of a specific individual recipient for service provided to that recipient). Grants expected from governmental agencies should not be included here but in the reporting category grants from governmental agencies. Also included in this category is revenue received from participants in a service provider's program, for example, from the public at large. This classification includes fee payment received for services furnished by the organization, for example, special education and related services, medical and psychiatric therapy, services to unwed mothers, adoption services, foster care of children. Whether a service provider uses schedules of fees for different services or merely requests recipients to pay what they feel they can afford, any payments solicited or suggested or accepted as a contribution in return for a service provider's professional services, as in the case of many church-related service providers, belong in this classification. Some service providers account for fees by recording them at established standard rates for services rendered, then apply an allowance to reduce the standard to the amount actually charged in each case. These service providers should report as service fee revenue only the net actually charged.

§ 4.3. Expense categories for use on Form C-1.

1. Gross salaries.

This category is for salaries and wages earned by a service provider's regular full and part-time employees and by temporary employees, including office temporaries, other than contract personnel services. Salaries are compensation paid periodically for managerial, administrative, professional, clerical and other supportive services. Wages are compensation paid periodically on a piecework, hourly, daily, or weekly basis for manual labor, skilled or unskilled, or a fixed sum for a certain amount of labor. Specific salary and wage categories are made available for the insertion of those major salaries and wage categories peculiar to any service provider. The following classifications are to be used in the completion of Form C-1:

a. Executive.

This category is for salaries earned by executives of a service provider. Most executives are professionals of some kind and assignment should be made according to what the person does rather than his or her profession. For example, if an executive staff member of a service provider is a lawyer, his salary would be classified under executive salaries despite the fact that the individual is a lawyer by profession.

b. Professional staff.

This category is for salaries earned by full or part-time professional members of a service provider's staff (excluding teachers), for example, campaign director, registered nurse, social worker, counselor, psychologist, and accountant.

c. Support staff.

This category is for salaries earned by full or part-time members of a service provider's clerical staff, maintenance staff and other support staff.

d. Instructional staff.

This category is for salaries earned by full or part-time members of the service provider's teaching staff and includes teachers of special education and teachers aides.

2. Total employee fringe benefits and employer's share of taxes.

This expense category is the total of employee benefits and employer-paid taxes as disclosed on Form C-3.

§ 4.4. Expense categories for use on Form C-2.

Final Regulations

Professional fees.

This expense category group is for fees and charges of professional practitioners, technical consultants, or semi-professional technicians, who are not employees of the service provider and are engaged as independent contractors for specified services on a fee or other individual contract basis. However, amounts paid to mechanics, artisans, repairmen and others engaged in maintenance and repair services to the service provider should not be included in this account. Also, fees for a recipient for direct personal services, other than those offered as part of the regular program services of the service provider, should not be included in this category. These should be included in the appropriate account within the category, Specific assistance to individuals, in § 4.8, 1. of these regulations.

a. Medical and dental services.

This category is for fees to medical and/or dental specialists for consultation with, or instruction of, service provider personnel on special cases among its clients, for example, physical medicine, orthopedics, pediatrics, internal medicine, neurology, dentistry, orthodontics. For Department of Education service providers, medical fees are allowable only if they are related to diagnostics and evaluation in the determination of eligibility of students for special education. This category should be distinguished from the amount for specific assistance to individuals. Fees charged to this category are for assistance to the service provider itself, whereas fees charged on behalf of a particular recipient or patient of a service provider should be charged to specific assistance to individuals.

b. Psychological services.

This category is for fees to qualified specialists for consultation with, or instruction of, service provider personnel on specific cases among its service recipients.

c. Legal services.

This category is intended for fees to attorneys for consultation with, or instruction of, service provider personnel on specific cases among its clients. Also, fees for services rendered to the service provider for interpretation and defense of its own legal rights and corporate entity.

d. Rehabilitation and education services.

This category is for fees to professional or licensed specialists in the various disciplines comprising the fields of rehabilitation and education for consultation with, or instruction of, service provider personnel on specific cases among its clients, for example, physical therapy, speech therapy, vocational

counseling and training, basic education, tutorial programs, special education, tuition, etc.

e. Audit services.

This category is for fees to certified public accountants for examining the service provider's financial statements for the purpose of rendering an opinion. Fees for services provided that are outside the scope of the audit examination should not be included in this account. These peripheral services, which could include tax and general management consulting, should be reported in the next category.

f. Accounting and bookkeeping services.

This category is for fees to accountants for consultation with, or instruction of, service provider personnel on specific matters related to service provider accounting and financial reporting procedures. Included are fees for services rendered to the service provider for supervision or maintenance of the service provider's financial records.

g. Other purchased services.

This category is for fees to specialists in the development of a service provider's financial resources and the interpretation and/or promotion of a service provider's programs and/or services to its public, for example, fund-raising, bequests, campaigns, community relations, etc. This category is also for fees to specialists rendering services to a service provider in the areas of investment, real estate, and collection; and for fees to employment agencies incurred by a service provider in the employment of service provider staff. This category is also for fees to banks and service bureaus for processing records and transactions of a service provider and for fees to other independent professional consultants under contract, such as architects and engineers. Specify the nature of the consultants and consultation shown in this category.

§ 4.5. Expenses categories for use on Form C-3.

Employee fringe benefits.

This expense category group is used to report the costs of employee benefits and applicable taxes which are used in determining total compensation. Total employee benefits amounts shown in this category group should equal the total amount of fringe benefits shown on Form C-1.

a. Medical, hospitalization and dental insurance.

This category is for amounts paid and accrued by the service provider to insure employees for costs of medical and dental care and hospitalization. Documentation of the extent of coverage and how

the costs of these benefits are computed shall be available upon request.

b. Accident disability insurance.

This category is for the cost of premiums paid or accrued by the service provider to insure employees for accidents and disabilities. The cost of this coverage is normally based on eligible employees' salaries and wages. Documentation of the extent of coverage and how the cost is computed shall be available upon request.

c. Group life insurance.

This category is for the cost of premiums paid or accrued by the service provider for life insurance policies offered under a group plan. Documentation of the extent of coverage and how the cost is computed shall be available upon request.

d. Pension and retirement benefits.

This category is for the cost of pension and retirement benefits paid or accrued by the service provider, including premiums for annuity insurance or contributions under a private funding plan. Documentation of the nature of the pension and retirement benefits and funding shall be available upon request.

e. Unemployment taxes and termination benefits.

This category is for the cost of federal or state unemployment insurance premiums or unemployment taxes and for other termination benefits. Documentation of the extent of coverage and funding requirements must be available upon request.

f. Workers' compensation.

This category is for the service provider's cost of workers' compensation insurance premiums based on eligible employee's salaries and wages.

g. Meals and housing.

This category is for the cost of meals and housing benefits provided to specific employees. The cost of meals and housing for employees should not be confused with meals and housing costs that relate to service recipients, which are reported on Forms E-1 and E-2.

h. Professional affiliations of employees.

This category is for membership dues paid by the service provider on behalf of employees for affiliation with organizations that are related to the functions of the service provider. These costs are

normally paid or reimbursed as they are incurred.

i. F.I.C.A. (Employer's share and employees' share, if applicable).

F.I.C.A. taxes are based on the employee's salary or wages according to the percentage established by federal law. If the employer has agreed to pay all or part of an employee's share of F.I.C.A., this is reported here along with the employer's share.

j. Other benefits.

This category is to disclose any additional fringe benefit costs that are not appropriately classified elsewhere.

§ 4.6. Expense categories for use on Form E-1.

1. Building occupancy.

This expense category group is for all costs arising from a service provider's occupancy and use of owned or leased land, buildings and offices and is used to complete Form E-1. This would exclude costs reportable elsewhere such as janitor's salaries and depreciation of nonbuilding assets, acquisition of equipment and other assets.

a. Rent.

This category is for the rental of buildings and grounds space used by a service provider in conducting its program and support functions and for the cost of compensation for the use of parking facilities.

b. Building and building equipment insurance (general and liability).

This category is for the cost of premiums for insurance contracts to reimburse the service provider for revenue or property loss. Examples of insurance coverage include fire, theft, boiler, and elevator.

c. Mortgage interest.

This category is for the cost of interest paid for the use of money through a lien on land and/or buildings (see interest cost provisions in Part III).

d. Utilities.

This category is for the cost of occupancy related to electric power, gas, heating oil, coal, water, and sewage used in the operation of the service provider and its services.

e. Janitorial and other maintenance services.

Final Regulations

This category is for the cost of maintenance services provided by nonemployees, for example, plumbers, electricians, roofers, masons, typewriter repairmen, appliance repairmen, lawn mowers, etc. Salaries of janitors and maintenance staff would not be reported here but in the salaries category. These types of contractual services should not be reported on Form C-2.

f. Real estate taxes.

This category is for the cost of real estate taxes assessed against a service provider for real estate used in the operation of the service provider or real estate held by a service provider for investment or rental income.

g. Buildings and grounds maintenance and supplies.

This category is for the cost of buildings and grounds maintenance supplies used by the service provider in its day-to-day operation of the facilities for its program and support functions such as paint, plaster, and fertilizer.

h. Building depreciation.

This category is for the depreciation expense or use charges of buildings used by the service provider for conducting activities during the reporting period.

i. Amortization of leasehold improvement.

This category is for amortization expense for improvements made to leaseholds used in the operation of the service provider.

2. Rental and maintenance of equipment.

This expense category group is for costs arising from a service provider's use of owned or leased equipment. Excluded are costs associated with building occupancy and costs of maintaining and operating transportation equipment.

a. Equipment rental.

This category is for costs to the service provider arising from rental of equipment used by the service provider in conducting programs and/or support functions.

b. Equipment maintenance.

This category is for all costs to the service provider arising from maintenance of equipment used by the service provider in conducting programs and/or support functions.

c. Equipment depreciation (excluding automobiles).

This category is for depreciation expense or use charges for all equipment except automotive used by the service provider in conducting programs and/or support functions with an expected useful life of at least two years.

d. Personal property tax (excluding automobiles).

This category is for the cost of personal property taxes assessed against eligible assets of a service provider.

3. Membership dues.

These categories are reserved for expenses relating to bona fide memberships in other organizations which provide benefits for regular services, publications, materials, etc. The cost of dues for individual staff members in professional organizations or other relevant entities is reported in the category for professional affiliations of employees.

4. Staff development expenses.

This category is for the cost of conferences, conventions, and meetings sponsored and paid for by the service provider which may include the cost of rent or fees charged for use of meeting rooms, equipment and other related expenses.

§ 4.7. Expense categories for use on Form E-2.

1. Travel.

These categories are for expenses of travel and transportation of staff, service recipients and volunteers of the reporting service provider.

a. Depreciation expense on vehicles.

This category is for the cost of depreciation expense or use charges of automotive equipment used by the service provider.

b. Maintenance and repairs.

This category is for the cost of the operation, maintenance and repair of a service provider's owned or leased vehicles.

c. Insurance - vehicles.

This category is for the cost of premiums for comprehensive insurance contracts, providing coverage for all phases of automotive insurance, for service provider owned or leased vehicles used in the operation of a program.

d. Auto allowances - employees and volunteers.

This category is for the cost of reimbursements for

mileage allowances, actual expenditures, parking fees, and other related expenses to employees and volunteers for the use of their private vehicles in the operation of the program. The maximum allowable mileage reimbursement rate is the current state-approved rate.

e. Lodging, meals, and commercial fares.

This category is for the cost of hotels, meals and other expenses incidental to, and directly connected with, the travel and transportation of the service provider's staff and volunteers and for the cost of fares charged by licensed public transportation companies including taxis.

f. Leasing costs - vehicles.

This category is for the cost of hourly, daily, weekly, monthly or annual lease fees for vehicles used in the operation of the program.

g. Property taxes - vehicles.

This category is for the cost of personal property taxes assessed against automotive transportation equipment used to transport staff or service recipients.

h. Other travel.

This category is for the cost of all licenses or permits, local, state or federal, required for the operation of service provider's vehicles used in the operation of the program and for the cost of travel which does not fit into other categories. Specify the nature of other travel expenses.

2. Supplies.

These categories are for the cost of materials, appliances and other supplies used by a service provider to provide programs and services.

a. Education and training.

This category is for the cost of materials and supplies purchased for educational and vocational training programs for service recipients.

b. Food and beverages.

This category is for the cost of food and beverages purchased for use in the food service function.

c. Laundry, linen and housekeeping.

This category is for the cost of linen, uniforms or other hygienic supplies and the cost of their cleaning and maintenance, as well as cooking and cleaning supplies. This is not to be confused with §

4.6, g; Buildings and grounds maintenance, in which category would be listed painting, repairs and supplies.

d. Office.

This category is for the cost of various paper and other supplies used in the operation of the program or supporting services and for the cost of materials and supplies used in the publication, printing, or duplicating activities.

e. Raw materials and manufacturing.

This category is for the cost of materials or goods purchased for use as an ingredient or component part of a finished product. These materials may be in their natural state and require further processing before becoming a part of the finished part which may be directly incorporated in the finished product. This category is also for the cost of supplies that can be directly identified with the manufacturing process.

f. Recreational and craft.

This category is for the cost of materials and supplies purchased for recreational programs and for the cost of materials and supplies purchased for craft programs for service recipients.

g. Other supplies.

This category is for the cost of medicines and drugs purchased generally for the use by service recipients to maintain an infirmary, health or first aid clinic. This category is also for the cost of prosthetic appliances and devices purchased for use in service recipient training and instruction in clinic functions. The cost of prosthetic appliances, devices or prescription drugs purchased for specific service recipients should not be included in this category. This category is also for the cost of new merchandise in a completed condition acquired for resale to the public in the furtherance of programs and/or services and for the cost of supplies which do not fit into prior categories. Specify the nature of all supplies included.

3. Communications.

These categories are for the cost of business communications related to the provision of services.

a. Telephone and telegraph.

This category is for the cost of all telephone, telegraph, mailgram, teleprocessing, and similar communication expenses.

b. Postage and shipping.

Final Regulations

This category is for the cost of postage, parcel post, commercial trucking and other delivery expenses for shipping and shipping materials, incurred in the operation of the program.

c. Printing for internal reporting.

This category is for the cost of printing charges of commercial artists and supplies for paints, artwork, proofs, photographs, and other costs associated with reports to management, directors, government and regulatory reporting. This includes descriptive material by recipient and service providers. It is not to be used for printing for promotional purposes.

d. Printing for promotional purposes.

This category is for the cost of contract artwork, contract [~~photograph~~ photography] and charges made by recording or film studios. It also includes the cost of advertising in newspapers, magazines, radio, television or other public media, and for the cost of printing, and publications which are done for promotional or advertising purposes.

e. Subscriptions and publications.

This category is for the cost of subscriptions, reference and resource publications for service providers' staff use, or for loan use by others, but not for distribution.

§ 4.8. Expense categories for use on Form E-3.

1. Specific assistance to individuals.

These categories are reserved for the cost to the service provider of specific materials, appliances, services and other assistance rendered by individuals or organizations other than the service provider for a recipient.

a. Medical and dental fees, medicines, etc.

This category is for the cost of medical fees and other related payments on behalf of a service recipient. Professional services fees paid by the service provider on a retainer fee or contract service basis are reported under professional fees. This category is also for the cost of dental fees and other related payments for the cost of nonprescription or prescription medicines or drugs, purchased in whole or in part on behalf of a service recipient. This category is also for the cost of the purchase, fitting, repair and maintenance of prosthetic appliances, purchased in whole or in part, for a service recipient's use. This category is also for the cost of hospital charges, for example, room, treatment, X-ray, food, and other services, purchased in whole or in part, for a service recipient.

b. Clothing allowance.

This category is for the cost of all items of apparel for a service recipient's personal use.

c. Transportation service.

This category is for the cost of transporting a service recipient from one place to another.

d. Personal allowances.

This category is for personal allowances to service recipients.

e. Service recipient wages (not allowances).

This category is for the cost of wages paid for sheltered employment. Wages [~~or~~ of] recipients employed by the service provider in nonsheltered situations should be shown in employee services. Sheltered employment is that which is approved for a modified pay scale by the U. S. Department of Labor.

f. Testing fees.

This category is for the cost associated with administering and analyzing tests.

g. Personal supplies.

This category is for the cost of personal hygiene supplies.

h. Public school supplies.

This category is for the cost of educational supplies necessary for the recipient who attends public school. Examples are pencils, paper, notebooks, erasers and rulers.

i. Other specific assistance.

This category is for the cost of recreational and cultural activities for a service recipient. This category is also for the cost of materials, for example, furniture, tools, craft supplies, production materials, etc., purchased for a recipient's individual use. This category is also for the cost of specific assistance to individuals which does not fit into the above categories. Specify the nature of the other specific assistance included.

2. Interest (other than mortgage).

This category is for the cost of all nonmortgage interest paid during the reporting period. Mortgage interest is not reported in this category (see interest provision in Part III).

The following forms to Rules of the Interdepartmental Committee on Rate-Setting: The Joint Regulations on Rate-Setting for Children's Facilities of the Board of Corrections, the Board of Education and the Board of Social Services have not been published but are available for public inspection at the office of the Registrar of Regulations, Virginia Code Commission, General Assembly Building, 910 Capitol Street, Richmond, Virginia, or the Department of Social Services, 8007 Discovery Drive, Blair Building, Richmond, Virginia.

FORMS:

- Alternate Year Service Provider Application (short form)
- Applicant Certification and Checklist Program Narrative
- A-1 General Applicant Information
- A-2 Service Information
- B-1 Revenues
- B-2 Restricted Funds and Documentation
- C-1 Employee Compensation - Assignment to Services - Proposed Budget Year
- C-2 Contractual Service Fees Assignment to Services
- C-3 Disclosure of Employee Fringe Benefits
- D-1 Real Property Information
- D-2 Fixed Asset Schedule
- E-1 Other Operating Expenses
- E-2 Other Operating Expenses - Continued
- E-3 Other Operating Expenses - Continued

STATE CORPORATION COMMISSION

ORDERS

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 17, 1985

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC830039

Ex Parte: In the matter of adopting
rules governing the definition
of the network termination interface

FINAL ORDER ADOPTING ADDITIONAL RULES

On June 10, 1985, the Commission entered an order which announced its intention to consider additional rules regarding the installation of network interface devices ("NIDs"), and directed the telephone utilities subject to these rules to give notice to the public of the proceeding. The Commission assigned a Hearing Examiner to the matter to receive all comments from the staff and interested parties with respect to adoption of the proposed rules and instructed the examiner to cause the comments received in the proceeding to be reduced to writing and delivered with the examiner's written recommendations and comments to the Commission for its consideration and deliberation.

A NID is a demarcation device which separates company-owned facilities from customer premises wiring. NIDs generally have a standard modular jack and plug which permit the disconnection of all customer premises wiring ("CPW") from the telephone company network by simply removing the plug from the jack. The additional rules which the Commission proposed to consider in its June 10, 1985 Order governed the installation of NIDs in existing businesses and residences and in all new multi-story, multi-occupancy buildings beginning construction after January 1, 1986.

Four of the telephone companies subject to the proposed rules filed comments. Most of the comments filed supported the additions to the rules. The Chesapeake and Potomac Telephone Company of Virginia ("C&P") suggested that the rules be amended to redefine "beginning construction" to mean that point when the telephone company has initial contact with the architect and/or owners respecting the building. C&P also proposed minor clarifying amendments to the rules. C&P suggested that the Commission consider a later implementation date for the new rules to allow the building industry to define responsibilities for providing and maintaining riser, house or building distribution cable beyond the NID.

Central Telephone Company of Virginia filed comments wherein it complained about the cost of implementation of Rules 9-13. Central stated in its comments that it did not feel it was appropriate to exchange an existing station

protector, if it was found to be in good working condition, with a NID solely for the purpose of installing such a device.

General Telephone Company of the Southeast stated that it supported the Commission's position and the proposed rule changes.

Mountain Grove-Williamsville Telephone Company filed comments in this proceeding. That company stated that the Commission should give consideration to requiring the customer to share the cost of the installation of the NIDs.

None of the parties filing comments requested a hearing on the rules.

On November 12, 1985, Glenn P. Richardson, Hearing Examiner, filed his report in this case. The examiner found that the rules governing NIDs as revised by the staff in its report dated September 9, 1985, were appropriate for adoption by the Commission and represented a reasonable approach to establish a clear demarcation point between company-owned facilities and customer premises wiring. The examiner recommended that the Commission enter an order adopting the rules attached to his report for implementation effective May 1, 1986, and closing this docket.

On November 27, 1985, United Inter-Mountain Telephone Company ("United") filed exceptions to the Hearing Examiner's report even though it did not file any comments in response to our June 10th Order. United requested, among other things, that the Hearing Examiner's report be modified to address the accounting treatment of NIDs installed on new and existing connections. United stated that the cost of a NID as a part of a new service connection should be capitalized, but that the cost of installation of a NID on an existing connection should be expensed. United suggested that this treatment was consistent with the present treatment of station protectors. United argued that the station connector is not considered a unit of property and is expensed. United also stated in its exceptions that Rule 9(a) and 9(b) should be amended so that the phrase "customers who subscribe to an optional wire maintenance plan" would be defined to include customers of companies which have not unbundled the inside wire maintenance charge from the access line rate.

Now having considered the record developed herein, we are of the opinion and find that the Hearing Examiner's recommendation regarding the text of the rules governing NIDs should be adopted, with a few minor wording changes, to correct certain grammatical errors. We, however, decline to address the issue of the accounting treatment of NIDs inasmuch as that issue was not addressed in the June 10th Order, and other telephone companies have not had an opportunity to file comments with regard to it. United's remarks concerning accounting for NIDs and its proposed interpretation of Rules 9(a) and (b) are untimely in that they were filed after the time

allowed for interested parties to file comments had expired. Parties were required to file comments on or before August 29, 1985. United may, of course, in the context of a rate case, or upon petition to the Commission, raise other issues regarding NIDs

Accordingly, IT IS ORDERED that the rules, as amended, appearing as Final Regulation shall be implemented forthwith, with the exception of Rules 14 through 16, which shall become effective on and after May 1, 1986, and that this matter is hereby dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each telephone company subject to the jurisdiction of the Commission; to Warner F. Brundage, Jr., Esquire, C&P Telephone Company, 703 East Grace Street, Richmond, Virginia 23219; to Gregory L. Wells, Business Affairs Manager, Central Telephone Company of Virginia, 2307 Hydraulic Road, P.O. Box 6788, Charlottesville, Virginia 22906; to Dale E. Sporleder, General Telephone Company of the Southeast, P.O. Box 1412, Durham, North Carolina 27702; to L. Ronald Smith, President-General Manager, Mountain Grove-Williamsville Telephone Company, P.O. Box 105, Williamsville, Virginia 24487; to the Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; and to the Commission's Divisions of Accounting and Finance and Communications.

/s/ George W. Bryant, Jr., Clerk

FINAL REGULATIONS

STATE CORPORATION COMMISSION

Title of Regulation: Rules Governing the Provision of Network Interface Devices.

Statutory Authority: §§ 12.1-28 and 56-247 of the Code of Virginia.

Definition.

The "network termination interface" or "standard demarcation device", hereinafter referred to as a "network interface device", or NID, shall be defined as a device which readily permits the disconnection of all Customer Premises Wiring, hereinafter referred to as CPW, from the telephone company network and provides access to the telephone company network through an industry registered jack, of a type provided for in FCC regulation Part 68 for testing purposes.

Rules.

The following rules will apply to new installations for telephone service using outside NIDs effective as of May 1, 1984.

Rules 1 through 4 apply to simple one or two line installations in single or duplex residence or business structures.

1. All wiring on the customer's premises that is connected to the telephone network shall connect to the telephone company network through the telephone company-provided NID.

2. Maintenance of the NID shall be the responsibility of the telephone company.

3. The NID used for the termination of CPW shall be located outside the customer premises unless an outside location is impractical or the customer requests that it be located inside the premises. When the NID is located inside the premises, it shall be located at a point closest to the protector that is convenient to the customer. Any additional cost associated with placing the NID inside when requested by the customer shall be at customer expense.

4. The telephone company shall instruct the customer as to the location, purpose and use of the NID.

Rules 5 through 8 apply to simple one and two line installations in multi-story or multi-occupancy buildings, campuses, malls, etc.

5. All wiring on the customer's premises that is connected to the telephone network shall connect to the telephone company network through the NID.

6. Maintenance of the NID shall be the responsibility of the telephone company.

7. The NID shall be located at a point between the CPW and the telephone company network. This location may be the telephone equipment room, wiring closet, inside or outside the customer premises, or other designated location that is accessible to the customer. If a customer requests that the NID be placed in a location which is other than that selected by the company and which conforms to the criteria set out in this rule, the customer must pay any additional expense associated with so placing the NID.

8. The telephone company shall instruct the customer as to the location, purpose and use of the NID.

Rules 9 through 12 apply to simple one and two line residence and business installations. These rules govern when a NID is installed on visits to the customer premises for reasons other than the initial installation of telephone service by a network installer-repair person.

9. A NID shall be installed on all maintenance visits to the customer premises by a network installer-repair person. The NID must be installed in a location accessible to the customer. The only exceptions to this rule are as follows:

State Corporation Commission

a. For residential customers who subscribe to an optional wire maintenance plan, providing all existing telephone sets are modular.

b. For residential customers who subscribe to an optional wire maintenance plan with all or some hard-wired telephone sets, providing there is no maintenance visit charge for troubles located in hard-wired telephone sets.

c. Where no access to company station protector exists.

d. Where excessive work load, including labor force shortage, excessive troubles, storms, strikes, emergencies, or acts of God would make it not feasible for company to immediately install a NID.

e. A suitable NID is not available in the marketplace to accommodate the existing installation.

10. It will be the telephone company's decision whether to place the NID inside or outside the customer premises. This decision should be the one that will best accommodate the installation of the NID at the least cost to the telephone company.

11. The maintenance of the NID shall be the responsibility of the telephone company.

12. If the customer requests that the NID be placed in a location other than the location selected by the telephone company, any additional cost to the telephone company will be at customer expense.

13. The telephone company shall instruct the customer as to the location, purpose and use of the NID.

Rules 14 through 16 apply to the termination of all telephone company network facilities in all new multi-story, multi-occupancy buildings, campuses, malls, etc., beginning construction after May 1, 1986. Beginning construction shall be deemed to occur when the telephone companies have initial contact with the architect and/or owners respecting a building.

14. The telephone company network facilities will terminate inside the building at a point of minimum penetration to the building. This location will be arranged through the building owner or architect. Normally, this location will be the same location as the termination for riser, house, or building distribution cable.

15. The telephone company will not be responsible for the provision of telephone riser, house or building distribution cable as a regulated service. This rule does not restrict the telephone company from installing riser, house or building distribution cable under contract.

16. The telephone company shall terminate the telephone network facilities at an appropriate telephone company-provided NID. The NID shall permit premises wiring to be readily connected or disconnected from the telephone company network facilities.

BUREAU OF INSURANCE

STATE CORPORATION COMMISSION BUREAU OF INSURANCE

ADMINISTRATIVE LETTER
1985-19

December 19, 1985

TO: All Insurance Companies, Life and Casualty Cooperative or Assessment Companies, Mutual Assessment Fire Insurance Companies, Prepaid Health Care Plans and Health Maintenance Organizations.

RE: Changes in the Licensing Procedure of Agents in Accordance with House Bill 1715.

House Bill 1715, effective January 1, 1986, changed a number of sections in Chapter 7.1 (Agents and Brokers) to delete the requirements for multiple licensing for agents and to prescribe a new procedure for the appointment of agents. An applicant for a resident life and health or property and casualty agent's license will no longer receive a certificate of qualification after successfully completing the requirements for the type of license that the agent is applying for. Instead, the applicant will receive a license to sell the type of insurance for which he has met the requirements. The licensed agent must then be "appointed" by each company to sell for the company that type of insurance for which he is licensed.

A licensed agent may solicit insurance applications for a company before being appointed by that company. In this situation the company must either reject the application or appoint the agent within 15 days of the company's receipt of the initial application from that agent by mailing an appointment form to the Bureau of Insurance.

The agent must discontinue any solicitation for a company if he has not received a copy of the appointment form (Form PIN 415) from the Commission within 30 days of his mailing or delivering the first application to an insurer. If the agent continues to solicit business for that insurer he will be subject to a penalty under § 38.1-40.

Each insurer must pay a \$7 fee for each appointment. Insurers will be billed quarterly for the appointment fee. A renewal fee of \$7 must also be paid each year by insurers for each appointment that they have made as of July 1.

The appointment will be effective unless it is terminated, suspended or revoked. It is the insurer's responsibility to notify the Bureau of Insurance and the agent when the insurer decides to terminate an agent. If an insurer accepts business from an agent and does not appoint the agent, the insurer will be subject to a penalty under § 38.1-40.

If you have any questions, you can contact Ms. Lisa Mann at 786-2631.

/s/ James M. Thomson, Commissioner of Insurance

Below is an example of the procedure a prospective resident life and health or property and casualty agent would follow:

After completing the life and health study course, Ricks completes an application for the life and health examination and sends it to the Bureau of Insurance with the \$15 fee. Ricks passes the examination and receives a license to sell life and health insurance. Ricks is appointed by Company ABC. Company ABC completes the form (Form PIN 415), sends the blue and yellow copies to the Bureau of Insurance. The white copy is to be given to the agent and the green copy should be retained by the company for its agent licensing department. The Bureau will then mail a copy of the appointment form and an appointment card to the agent verifying that the agent has been appointed. Ricks begins to sell insurance for ABC. He is asked for information about other companies and he solicits an application for XYZ Company. He mails the application to XYZ. XYZ decides to accept the business and appoints the agent. They mail the appointment forms to the Bureau of Insurance within the required 15 days after receiving the application from Ricks. The Bureau receives the forms a few days later and sends a copy of the form and an appointment card to Ricks. Ricks is now appointed by ZYZ Company.

For agents who are presently qualified and licensed, certificates of qualification will be considered licenses on January 1, 1986. Licenses for resident life and health and property and casualty agents that are presently issued will be considered appointments. On July 1 an appointment fee must be paid by each company.

Applicants for restricted licenses and non-resident licenses must continue to complete Form PIN 405-A and submit it to the Bureau of Insurance. An additional Form PIN 405-A must be completed for each new company that the restricted agent wishes to be appointed to represent. Applicants for agency licenses must continue to complete Form PIN 405-B for each company they desire to represent. Companies will be billed for the licenses/appointments.

The new appointment for (Form PIN 415) is now available. A copy of the form is attached for your information. Please make your requests for copies in writing to the Bureau of Insurance, P.O. Box 1157, Richmond, Virginia 23209. A mailing label should be included with your request for appointment forms.

—□

Jan. 1, 1986

PIN 415

SCC USE ONLY

A _____
Social Security Number

Type	Frequency
Type 1	1
Type 2	1

01 = Life & Health
30 = Property & Casualty

NAIC Number

Agent's First Name

Middle

Last Name

Suffix

Agent's Home Address (DO NOT USE P.O. BOX IN LIEU OF STREET NUMBER AND NAME)

VIRGINIA

City or Town of residence

Zip Code

Full and Exact Name of Insurance Company

Home Office Address

This appointment authorizes the individual named hereon to represent this insurance company as an agent in the solicitation and sale of those kinds of insurance that the company is authorized to transact in Virginia and for which the individual has been issued a license.

ADDITIONAL NAIC #'s

Address to which appointment is to be sent.

USE TYPEWRITER ONLY

Signature of appointing official

Signature of Agent

Date _____

WHITE-TO AGENT

LEGISLATIVE OBJECTIONS AND RESPONSES

As provided by § 9-6.14:9.2 of the Code of Virginia, the House General Laws Committee has filed the following objection with the Board of Housing and Community Development and the Registrar of Regulations regarding VR 394-01-22 - Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984.

* * * * *

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1984.

Agency: Board of Housing and Community Development

Regulations Published: Vol. II, Issue 6, Page 680, (12/23/85)

Effective Date: April 1, 1986

Date Legislative Objection Filed: January 22, 1986

Legislative Objection Filed by: House General Laws Committee

MEMORANDUM

TO: Board of Housing and Community Development

FROM: Alan A. Diamonstein, Chairman
House General Laws Committee

At its meeting on January 20, the House General Laws Committee of the General Assembly considered the proposed new Volume II - Building Maintenance Code of the Uniform Statewide Building Code which is now in the final adoption process. Volume II was recently adopted by the Board to become effective April 1, 1986. It was published in the December 23 issue of the Virginia Register of Regulations.

The Committee is aware of concerns (see attached) and reservations regarding provisions of these regulations that could require the retrofit of structurally sound buildings. The Committee believes that these concerns should be carefully considered by the Board prior to these regulations becoming effective.

For that reason, the Committee has agreed to file this objection with the Board and the Registrar under the terms of § 9-6.14:9.2 of the Administrative Process Act of the Code of Virginia. The required response should be filed with the Governor, the Committee, and the Registrar within 21 days of receipt as required by the Act.

SPECIFIC AREAS OF OBJECTION

Exempt from the provisions of the BOCA Model Existing Structures Code, Volume II, Building Maintenance Code alterations of building uses, designs and equipment existing under a current certificate of occupancy unless an unsafe

or unhealthy condition exists.

Below are examples of provisions in the Code which will become effective April 1, 1986, unless modified or eliminated.

302.3.3. ROOFS AND DRAINAGE: The roof shall be structurally sound, tight, and not have defects which might admit rain. Roof drainage shall be adequate to prevent rain water from causing dampness or deterioration in the walls or interior portion of the building. Roof water shall not be discharged in a manner that creates a nuisance to owners or occupants or adjacent premises, or that creates a public nuisance.

404.4. MINIMUM CEILING HEIGHTS: Habitable spaces shall have a clear ceiling height over the minimum area required by this code at not less than 7 1/3 feet (2235 mm), except that in attics of top half-stories the ceiling height shall be not less than 7 feet (2134 mm) over not less than one-third of the minimum area required by this code when used for sleeping, study or similar activity. In calculating the floor area of such rooms, only those portions of the floor area of the room having a clear ceiling height of 5 feet (1524 mm) or more may be included.

404.6. MINIMUM ROOM WIDTHS: Every habitable space shall have a clear room width of not less than 7 feet (2134 mm) at the narrowest point.

EXCEPTION: Kitchens require a clear passageway of not less than 3 feet (914 mm) between counter, appliances and/or walls.

602.1.1. RECEPTACLES: Every habitable space in a dwelling unit, and every guest room shall contain at least two separate and remote receptacle outlets. Every laundry area and bathroom shall contain at least one grounded type receptacle. Every bathroom shall contain at least one receptacle.

701.6. DUAL EGRESS: Every residential building exceeding two stories in height above grade, not counting basements, shall be provided with not less than two approved independent exits from each floor above the second floor, fully accessible from each occupancy on the floor.

EXCEPTION: One and two family dwellings.

GOVERNOR

EXECUTIVE ORDER NUMBER ONE (86)

EQUAL EMPLOYMENT OPPORTUNITY

By virtue of the authority vested in me as Governor, I hereby declare that it is the firm and unwavering policy of the Commonwealth of Virginia to assure equal employment opportunity for all state employees and for all applicants for state employment.

This policy specifically prohibits employment discrimination on the basis of race, sex, color, national origin, religion, age, political affiliation, or disability.

State appointing authorities and other management principals are hereby directed to take affirmative measures, as determined by the Director, Department of Personnel and Training, to emphasize the recruitment of qualified minorities, women, disabled persons, and older Virginians to serve at all levels of state government.

This policy does not permit or require the lowering of bona fide job requirements, performance standards, or qualifications to give preference to any state employee or applicant for state employment.

Allegations of violations of this policy shall be brought to the attention of the Office of Equal Employment Services and Program Evaluations of the Department of Personnel and Training. No state appointing authority, other management principals, or supervisor shall take retaliatory actions against persons making such allegations.

Any state employee found in violation of this policy shall be subject to appropriate disciplinary action.

This Executive Order rescinds the following executive orders.

1. Executive Order Number Twenty-Nine (72), issued December 27, 1972, by Governor Linwood Holton;
2. Executive Order Number One (74), Amendments to Appendix D, issued July 5, 1976, by Governor Mills E. Godwin, Jr.;
3. Executive Order Number One (78), issued January 31, 1978, by Governor John N. Dalton; and
4. Executive Order Number One (82), issued January 16, 1982, by Governor Charles S. Robb.

This Executive Order shall become effective upon its signing and will remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 11th day of January, 1986.

/s/ Gerald L. Baliles
Governor

* * * * *

EXECUTIVE ORDER NUMBER TWO (86)

CREATING GOVERNOR'S COMMISSION OF EFFICIENCY IN GOVERNMENT

By virtue of authority vested in me as Governor, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Efficiency in Government.

The Commission shall have the general responsibility to advise the Governor of opportunities for increasing the efficiency and effectiveness of state government, reducing the regulatory burdens imposed by the Commonwealth on its citizens and businesses, and eliminating deleterious competition between state government and the private sector.

The Commission shall have the following specific responsibilities:

1. To conduct a comprehensive review of the management of state governmental activities and to suggest means by which efficiency might be enhanced and the cost of governmental activities be minimized;
2. To coordinate a statewide Paperwork Reduction Project to review the paperwork and reporting requirements imposed by state government upon its citizens and businesses, and to suggest means by which that burden may be reduced by 25% by 1990;
3. To initiate a comprehensive review of those activities of state agencies and institutions that might more appropriately be provided by private entities, or that place the Commonwealth in a position of unfair competition with the private sector; and
4. To advise the Governor regarding opportunities for improving the regulatory climate in Virginia and for ensuring that the Commonwealth conducts its regulatory activities in a manner that provides the least possible intrusion into the lives of individual citizens and the functions of business enterprises that is consistent with protection of the public health, safety, and welfare and in furtherance of the public interest.

The Commission shall review Executive Branch proposals regarding these subjects and shall, to the extent it deems desirable, hold public hearings to identify citizen and private sector concerns regarding these subjects.

The Commission shall from time to time advise the Governor of progress made in reducing, eliminating, simplifying, or clarifying state regulations, paperwork, and reporting requirements, and shall make such proposals as it may deem appropriate regarding the activities and management of state agencies and institutions.

The Commission shall be composed of twenty to twenty-five members appointed by the Governor and serving at his pleasure. The Governor shall designate a Chairman and Vice-Chairman of the Commission.

Members of the Commission shall serve without compensation and shall not receive any reimbursement for expenses incurred in the discharge of their official duties.

Such staff support as is necessary for the conduct of the Commission's business during the term of its existence shall be furnished by the Office of the Governor, the offices of the several Governor's Secretaries, the Department of Planning and Budget, and such other executive agencies as the Governor may from time to time designate. Such funding as is necessary for the term of its existence shall be provided from such sources, both public and private, authorized by § 2.1-51.37 of the Code of Virginia.

This Executive Order rescinds Executive Order Number Twenty (82), and abolishes the Governor's Regulatory Reform Advisory Board created thereby.

This Executive Order shall become effective on the date of its signing and shall remain in full force and effect until January 11, 1987, unless amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia this 11th day of January, 1986.

/s/ Gerald L. Baliles
Governor

* * * * *

EXECUTIVE ORDER NUMBER THREE (86)

AUTHORITY AND RESPONSIBILITY OF CHIEF OF STAFF

By virtue of the authority vested in me as Governor by Article V, Sections 1, 7, 8, and 10 of the Constitution of Virginia and Sections 2.1-38 and 2.1-39.1 of the Code of Virginia, and subject always to my continuing, ultimate authority and responsibility to act in such matters and to reserve to myself any and all such powers, I hereby affirm and delegate to my Chief of Staff the powers and duties enumerated below:

1. To direct, as the deputy planning and budget officer, the administration of the state government planning and budget process, except as to the responsibilities enumerated below, which are retained by me:

a. Submission of the budget and accompanying documents to the General Assembly;

b. Final review and determination of all proposed

expenditures and of estimated revenues and borrowings to be included in the Executive Budget for each state department, division, office, board, commission, institution, or other agency or undertaking;

c. Amendment of Maximum Employment Levels;

d. Authorization of deficits; and

e. Appointment of the Director of the Department of Planning and Budget.

2. To direct, as the deputy personnel officer, the administration of the state government personnel system, except as to the responsibilities enumerated below, which are retained by me:

a. Final determination with respect to employee compensation plans;

b. Submission of reports to the General Assembly by the Governor as required by law;

c. Issuance, amendment or suspension of the Rules for the Administration of the Virginia Personnel Act;

d. Final action on appeals from appointing authorities to the Governor; and

e. Appointment of the Director of the Department of Personnel and Training.

3. To review, in the event of my absence or unavailability, major planning, budgetary, personnel, policy and legislative matters which require my decision and the review, in the event of my absence or unavailability, policy differences which may arise among or between my Secretaries.

4. To act as chief liaison officer with members of the General Assembly of Virginia.

5. To act as Senior Executive Assistant with responsibilities that include, but are not limited to, the direction and supervision of the Governor's Office, as well as budgetary and personnel authority therefore.

This Executive Order rescinds Executive Order Number Forty-six (84) issued the 28th day of June, 1984 by Governor Charles S. Robb.

This Executive Order shall become effective January 16, 1986 and remain in full force and effect until January 12, 1990, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 11th day of January, 1986.

/s/ Gerald L. Baliles
Governor

Governor

* * * * *

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: VR 240-02-1. Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II.

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Charles S. Robb
Date: January 10, 1986

DEPARTMENT OF HEALTH

Division of Solid and Hazardous Waste Management

Title of Regulation: VR 355-22-2.1. Virginia Hazardous Waste Management Regulations - Amendment 7.

Governor's Comment

I recommend that the Department carefully consider any public comments received on these regulations prior to their final adoption.

/s/ Charles S. Robb
Date: January 10, 1986

* * * * *

Title of Regulation: VR 355-22-3.1. Regulations Governing the Transportation of Hazardous Materials - Amendment 5.

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Charles S. Robb
Date: January 10, 1986

* * * * *

Title of Regulation: VR 355-34-02. Sewage Handling and Disposal Regulations.

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Charles S. Robb
Date: January 10, 1986

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Title of Regulation: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

Governor's Comment:

I recommend that the Department work closely with the Department of Corrections in addressing their concerns over certain portions of these regulations before they are finally adopted, particularly those dealing with the use of medication, admissions and patient advocacy.

/s/ Charles S. Robb
Date: January 10, 1986

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-21-02. Standards and Regulations for Licensed Adult Day Care Centers

Governor's Comment:

No objections to the proposed regulations as presented. The Department is to be commended for its efforts to simplify, clarify and eliminate unnecessary requirements as a result of the regulatory review process.

/s/ Charles S. Robb
Date: January 9, 1986

DEPARTMENT OF TAXATION

Title of Regulation: Cigarette Sales Below Wholesale Cost Act; Public Policy; Prohibited Activities; Violation Enforcement VR 630-27-286. Definitions VR 630-27-287. Combination Sales and Concessions VR 630-27-288. Unfair Method of Competition VR 630-27-289. Injunctive Relief and Damages VR 630-27-290. Revocation or Suspension of Licenses or Permits for Violations VR 630-27-291. Exemption or Suspension of Licenses or Permits for Violations VR 630-27-292. Special Cost Provisions; Cash and Carry VR 630-27-293.

Governor's Comment:

No objections to the proposed regulations as presented but recommend that the Department consider the comments submitted by the Department of Planning and Budget before taking final action on the proposed regulations.

/s/ Charles S. Robb
Date: January 10, 1986

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

NOTICES OF INTENDED REGULATORY ACTION

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **Rules and Regulations Governing the Production, Handling, and Processing of Milk for Manufacturing Purposes and Establishing Minimum Standards for Certain Dairy Products to be Used for Human Food.** The purpose of the proposed amendment is to lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter on individual producer raw milk.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Written comments may be submitted until March 5, 1986, to Raymond D. Vaughan, Secretary of the Board of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209

Contact: William R. Crump, Jr., Chief, Bureau of Dairy Services, Virginia Department of Agriculture & Consumer Services, Division of Dairy and Foods, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Service intends to consider amending regulations entitled: **Rules and Regulations Governing the Production, Processing and Sale of Grade "A" Pasteurized Market Milk and Grade "A" Pasteurized Market Milk Products and Certain Milk Products.** The purpose of the proposed amendment is to lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter on individual producer Grade "A" raw milk for pasteurization.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Written comments may be submitted until March 5, 1986, to Raymond D. Vaughan, Secretary of the Board of

Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209

Contact: William R. Crump, Jr., Chief, Bureau of Dairy Services, Virginia Department of Agriculture & Consumer Services, Division of Dairy and Foods, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects intends to consider amending regulations entitled: **Virginia State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects.** The amendments may address, but will not be limited to the education and training requirements of a person seeking the Engineering Intern Status graduating from nonapproved programs, minimum standards for land surveyors, and language changes in the architect regulations.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until March 6, 1986.

Contact: Johnsie Williams, APELSCLA Board, 3600 West Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8555 (toll-free number 1-800-552-3016)

DEPARTMENT OF COMMERCE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Polygraph Examiners Regulations.** The purpose of the proposed regulations is to amend the Rights of Examinees to prohibit the asking during polygraph examination of questions concerning the political affiliation, religion, labor activities and/or handicaps of the examinee; to allow examinees to tape record polygraph examinations and to require examinees to be informed of their rights in writing in advance of polygraph

General Notices/Errata

examinations. Also to solicit public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the Department's Public Participation Guidelines' requirement for an Annual Review of Regulations.

Statutory Authority: § 54-917 of the Code of Virginia.

Written comments may be submitted until March 7, 1986.

Contact: David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515 (toll-free number 1-800-552-3016, Virginia only)

VIRGINIA FIRE BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Fire Board intends to consider amending regulations entitled: **Training Courses and Programs for Fire Marshals and Their Assistants**. The purpose of the proposed amendment is to amend the training courses and programs required for local fire marshals and their assistants.

Statutory Authority § 9-155 of the Code of Virginia

Written comments may be submitted until March 15, 1986, to Robert A. Williams, Department of Fire Programs, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg. 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681

VIRGINIA REAL ESTATE BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Real Estate Board intends to consider amending regulations entitled: **Virginia Real Estate Board's Regulations; (ii) Fair Housing Regulations; and (iii) Condominium and Time-Share Regulations**. The purpose will be to undertake an annual review and seek public comment on all its regulations. Consideration will be given to the following specific items and other suggestions that are received by the board prior to March 5, 1986:

- Repeal of unnecessary procedural Fair Housing provisions.
- Amendments to provisions of Condominium Regulations.

- Amendments to Time-Share Regulations.
- Amendment to conform regulations to law regarding registration of rental location agents.
- Require immediate return of license upon termination or transfer of a salesperson.
- Specify approval of categories of broker courses.
- Amend acceptable content of required Real Estate Principals and Practices courses.
- Provisions for the issuance of duplicate broker licenses.
- Upon consideration of all submittals, the board may elect to proceed further in accordance with its public participation guidelines and the Administrative Process Act resulting in new, modified, or repealed regulations.

Statutory Authority: § 54-740 of the Code of Virginia.

Written comments may be submitted until March 5, 1986.

Contact: Julio G. Del Corso, III, Assistant Director, Virginia Real Estate Board, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8516 (toll-free number 1-800-552-3016, Virginia only).

DEPARTMENT OF SOCIAL SERVICES

Division of Benefit Programs

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services, Division of Benefit Programs intends to consider amending regulations entitled: **Job Training Partnership Act (JTPA), Title II, Part A Income Disregards in the Aid to Dependent Children (ADC) Program**. The purpose of the proposed amendment is to disregard children's earnings derived through participation in JTPA, Title II, Part A for six calendar months per year and children's unearned income derived through participation in JTPA, Title II, Part A indefinitely.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until February 18, 1986, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699

Contact: Carolyn Ellis, Supervisor, Economic Assistance Unit, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

GENERAL NOTICES

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

ANNOUNCING THE AVAILABILITY OF GRANT FUNDS FOR CRIMINAL JUSTICE ASSISTANCE

The Department of Criminal Justice Services announces the availability of grant funds to assist state agencies and local units of government in carrying out programs which offer a high probability of improving the functioning of the criminal justice system.

In accord with statutory requirements which apply to these funds, and priorities determined by the Criminal Justice Services Board, the following program categories are eligible for funding:

- (1) Community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;
- (2) Programs which provide assistance to victims, jurors and witnesses;
- (3) Programs which provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;
- (4) Programs which alleviate jail and prison overcrowding, and programs which identify existing state and federal buildings suitable for prison use;
- (5) Programs which provide prison industry projects designed to place inmates in a realistic working and training environment in which they will be enabled to acquire marketable skills and to make financial payments for restitution to their victims, for support to their families and for support of themselves in the institution;
- (6) Programs which provide training, management, and technical assistance to criminal justice personnel and determining appropriate prosecutorial and judicial personnel needs;
- (7) Programs which disrupt illicit commerce in stolen goods and property.

Grant applications for continuation funding, or for new programs, must be received by the department by the close of business on Friday, February 7, 1986.

Successful applicants will receive funding for the period July 1, 1986 through June 30, 1987. Priority will be given to continuing those programs now receiving funds and demonstrating satisfactory performance.

A guide describing the eligible programs, funding sources, matching requirements, application procedures and

administrative requirements is available. It also contains the necessary grant application forms and detailed instructions for completing them. For a copy, write or call R. L. Bell, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

NOTICE TO STATE AGENCIES

RE: Forms for filing material on dates for publication in The Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

PROPOSED (Transmittal Sheet) - RR01
FINAL (Transmittal Sheet) - RR02
NOTICE OF MEETING - RR03
NOTICE OF INTENDED REGULATORY ACTION - RR04
NOTICE OF COMMENT PERIOD - RR05
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

NOTICE TO STATE AGENCIES

A list of major meetings of various trade associations and organizations is maintained in the office of the Registrar of Regulations. Upon request, this list will be made available to you in order that you can avoid conflicts when setting up meetings and hearings.

NOTICE TO TRADE ASSOCIATIONS AND ORGANIZATIONS

The 1985-1986 listing of major meetings of certain organizations and associations is being updated. If you would like your organization's annual or semi-annual meeting listed, please advise the office of the Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591.

General Notices/Errata

ERRATA

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: **VR 115-05-11. Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores.**

Issue: 2:6 VA.R., 636-672, December 23, 1985

Corrections to the proposed regulation are as follows:

Page 639, second column, subparagraph 1 of § 2.3 C, line 13, should read:

"(approx. $\pm 1^{\circ}\text{C}$)".

Page 642, first column, PART III heading reads "PERSONAL HYGIENE", should read:

"PERSONNEL HYGIENE".

Page 642, second column, last line in paragraph A of § 4.1 should read:

"...impart odors, color, taste, nor contribute to the contamination of food...".

Page 642, last line in paragraph B of § 4.1 should read:

"If solder is used, it shall be composed of safe materials and be corrosion resistant". The phrase "not contribute to the contamination of food" should be deleted from this sentence.

Page 643, second column, subparagraph 2 of § 4.3 B, line 8 should read:

"...inches (76) mm or more; or if no part of the table under the equipment is more than...".

Page 650, line 5 in paragraph B of § 7.6, should read:

"...or, in food storage rooms or areas containing only...".

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: **VR 615-31-02. Regulation for Criminal Record Checks: Licensed Child Care Centers and Child Care Institutions.**

Issue 2:6 VA.R., 673-675, December 23, 1985

Correction to the title of the proposed regulation is as follows:

VR 615-31-02. Regulation for Criminal Record Checks: Licensed Child Care Centers and Child Caring Institutions.

DEPARTMENT OF TAXATION

Title of Regulation: **VR 630-2-325. Individual Income Tax: Taxable Income of Nonresidents.**

Issue 2:7 VA.R., 802-804, January 6, 1986

Correction to the proposed regulation is as follows:

Page 803, first column,

Step 1: Income computed as a resident:

correct amount from \$118,000 to \$118,100

* * * * *

Title of Regulation: **VR 630-28-796.13 through VR 630-28-796.27. Virginia Cattle Assessment Regulations.**

Issue: 2:7 VR.R., 810-812, January 6, 1986

Correction to the proposed regulation is as follows:

Page 812, the reverse side of the Virginia Cattle Tax Return Form CAT-1 was not printed. Please see below for full form.

FORM CAT-1
REV 7/85

VIRGINIA CATTLE TAX RETURN
VIRGINIA DEPARTMENT OF TAXATION
P.O. BOX 2185 RICHMOND, VIRGINIA 23217-2185
SEE INSTRUCTIONS ON REVERSE SIDE

☐ OUT OF BUSINESS — INDICATE THE DATE YOUR BUSINESS WAS SOLD OR TERMINATED HERE: _____

1	NUMBER OF CATTLE AND CALVES MARKED DURING QUARTER	
2	NUMBER OF BIRTH COVS SOLD TO FARMERS FOR MEAT PRODUCTION DURING QUARTER AND/OR CATTLE OR CALVES PURCHASED FOR LESS THAN \$200/HEAD DURING QUARTER	
3	NUMBER OF CATTLE AND CALVES SUBJECT TO TAX (LINE 1 LESS LINE 2)	
4	TAX (LINE 3 TIMES 2%)	
5	PENALTY IF TAX NOT PAID BY DUE DATE ENTER 5% OF TAX HERE (LINE 4 TIMES 5%)	
6	TOTAL AMOUNT DUE AND PAYABLE (LINE 4 PLUS LINE 5)	

I declare that this return (including any accompanying schedule and statement) has been prepared by me and to the best of my knowledge and belief it is a true and correct and complete return.

SIGNATURE _____
DATE _____ TELEPHONE NO. () _____

FILING INSTRUCTIONS

1. THIS RETURN MUST BE FILED BY THE LAST DAY OF THE MONTH FOLLOWING THE CLOSE OF EACH QUARTER, EVEN IF NO TAX IS DUE.
 2. IF THE TAX IS NOT PAID BY THE DUE DATE, A PENALTY OF 5% OF THE TAX MUST BE ENTERED ON LINE 5.
 3. MAKE YOUR CHECK OR MONEY ORDER FOR THE AMOUNT ON LINE 6 PAYABLE TO THE DEPARTMENT OF TAXATION.
 4. SEND THIS RETURN WITH YOUR PAYMENT TO THE DEPARTMENT OF TAXATION, P.O. BOX 2185, RICHMOND, VIRGINIA 23217-2185.
- FOR ASSISTANCE, CALL (804) 257-8046 OR WRITE TO THE DEPARTMENT OF TAXATION, TAXPAYER ASSISTANCE SECTION, P.O. BOX 641, RICHMOND, VIRGINIA 23262

VIRGINIA CATTLE TAX RETURN

CALENDAR OF EVENTS

Symbol Key †

† Indicates entries since last publication of the Virginia Register

NOTICE: Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

THE VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

February 25, 1986 - 2 p.m. – Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, Board Room 204, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to adopt regulations entitled: **Rules and Regulations Governing Retail Food Store Sanitation and Operations**. This regulation establishes requirements for Retail Food Store Sanitation and Operations.

STATEMENT

Basis: Virginia Department of Agriculture and Consumer Services, Bureau of Food Inspection, has for some time been considering the need to formalize retail food store inspection criteria that are currently contained in the Food Inspection Field Operations Manual. In addition, new technology and innovations in the retail food industry such as food services and salad bars have increased attention being given to sanitation and food safety by the public and some members of the General Assembly.

Purpose: The proposed regulation will formalize the inspection procedures for retail food stores currently utilized by the Virginia Department of Agriculture and

Consumer Services, Bureau of Food Inspection.

Impact: The expense to regulatory agencies for the implementation and enforcement of the proposed regulation will be limited to printing costs.

Statutory Authority: §§ 3.1-364 and 3.1-398 of the Code of Virginia.

Written comments may be submitted until February 7, 1986, to Raymond D. Vaughan, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209.

Contact: Don O'Connell, Chief, Bureau of Food Inspection, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3520

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February 26, 1986 - 10 a.m. – Public Hearing
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

The Department will hear comments on all of the proposed regulations listed below.

Written comments on all proposed regulations may be submitted until February 25, 1986, to Raymond D. Vaughan, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Virginia 23209.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to amend the following regulations:

Title: Rules and Regulations for Enforcement of the Virginia Pesticide Law. This regulation ensures that pesticides sold and used in Virginia are effective and can be used without causing unreasonable adverse effects to humans and the environment.

STATEMENT

Statement of Basis: 1. The original rules and regulations were written to regulate the manufacture, sale, and transportation of economic poisons (pesticides) and devices, including insecticides, fungicides, rodenticides, herbicides, disinfectants, pest repellents, lures, wood

Calendar of Events

preservatives, and mildew controls.

In 1975 the rules and regulations were amended to provide for enforcement of the Virginia Pesticide Use and Application Act of 1975. This act provided for the certification and licensing of both private and commercial applicators using restricted use pesticides in Virginia. In addition, this act provides for monitoring use or conducting misuse investigations on the use of any pesticide or container inconsistent with the label directions or regulations of the board.

2. The rules and regulations adopted under the Virginia Pesticide Law were considered in accordance with the Governor's Regulation Review Process to determine if the requirements were needed and to assure that they were clearly and simply stated as well as requirements not needed.

3. The continued economic production of food and fiber in Virginia is, in a large measure, dependent on the effective control of the various pests e.g. insects, diseases, weeds etc. affecting these commodities. Chemical pesticides are expected to continue playing a major role in effective pest control. In addition, it is equally essential that these materials be applied in such a manner as to assure a minimum adverse impact on humans and the environment. An effective program of regulating these important chemicals is essential to this effort.

Purpose: The primary purpose of this regulation is to aid in assuring the continued availability of pesticide chemicals essential to the production of food and fiber and the protection of health and property in Virginia. It also provides assurance that these products are adequately labeled to ensure that they are effective for their intended use and can be used without unreasonable adverse effects to the applicator, the public or to the environment.

Impact: Number or types of regulated entities or persons affected. All citizens of Virginia have a vested interest in the effective regulation of pesticide chemicals. The entities include 13,000 farmers, 400 dealers, homeowners, 3,000 commercial applicators, 898 manufacturers and others.

Statutory Authority: §§ 3.1-217 and 3.1-217.1 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist, Bureau Chief, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * *

Title: Rules and Regulations for the Enforcement of Virginia Fertilizer Law.

STATEMENT

Statement of basis: This regulation is essential to assure

consumers that commercial fertilizers are plainly and conspicuously labeled and that such products contain the amount of nutrients declared on the label. It prescribes how plant nutrients must be expressed on the product label; it provides for minimum guarantees for nutrients other than nitrogen, phosphorus and potassium; it prescribes how slowly available plant nutrients may be guaranteed; it provides the requirements for registering and labeling "Soil Conditioners"; it provides investigational allowances to be used in determining when a product is deficient; it provides for monetary penalty assessments for nitrate and water insoluble nitrogen, secondary and minor elements and for excessive chlorine in tobacco fertilizers; it provides maximum chlorine guarantees for tobacco fertilizers and it provides for a minimum percentage of primary plant nutrients (Nitrogen, Phosphate and Potash) in mixed fertilizers.

Statement of purpose and impact: The regulation is necessary to prescribe uniform labeling of plant nutrients so that the consumer can compare one product with another; to provide investigational allowances to be used in determining when a product is deficient; to provide for monetary penalty assessments for deficiencies in certain plant nutrients and to provide minimum percentages of plant nutrients to be included in mixed fertilizers.

Impact: The regulation affects 350 fertilizer manufacturers doing business in Virginia. The new provision will likely reduce violations and monetary penalty assessments.

Statutory Authority: § 3.1-104 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law. The regulation establishes industry-wide rules to provide for the orderly marketing of and proper accounting for tobacco sold at auction in licensed warehouses. The regulation prescribes sales records to be kept, identifies persons that can alter records or reject a sale, and provides authorization from consignor for licensee to buy tobacco for his own account.

STATEMENT

Statement of Basis: The Virginia Commission Merchants Law provides for licensing Commission Merchants and sets forth certain requirements for record keeping for the orderly marketing and proper accounting of tobacco sold at auction in licensed warehouses. Section 3.1-921 of the Code of Virginia provides for the State Board of Agriculture and Consumer Services to adopt needed rules and regulations for the enforcement of this chapter. Regulations have been adopted to further assure the orderly marketing and proper accounting of tobacco sold at auction in licensed warehouses.

Nontechnical changes were made to improve sentence structure and clarity to the rules.

The regulation specifies information required on a "Ticket", "Tobacco Sale Bill", and "Buyers Bill". It further specifies what records must be kept and made available for inspection and who is authorized to make changes to the required documents.

Purpose: To provide for the orderly marketing of and proper accounting for tobacco sold at auction in licensed warehouses.

Impact: This regulation affects 44 tobacco warehouses licensed under the Commission Merchants Law and all companies/persons buying tobacco at these licensed warehouses.

Statutory Authority: § 3.1-721 of the Code of Virginia.

Contact: J. F. Lyles, Chief, Virginia Department of Agriculture and Consumer Services, Weights and Measures Bureau, Washington Bldg., Room 402, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2476

* * * * *

Title: Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.

STATEMENT

Statement of Basis: The Virginia Weights and Measures Law (Ch. 35 of Title 3.1 of the Code of Virginia) provides consumer protection at the point of sale in all commercial transactions. Section 3.1-926 of the Code of Virginia states in part, that the board may issue regulations for the enforcement of this chapter. Regulations have been developed to establish operating guidelines for specific weights and measures activities. The regulations were developed to:

1. Specify commodity labeling requirements to assure truthful information in labeling of consumer and nonconsumer commodities. The labeling requirements are compatible with the Federal Fair Packaging and Labeling act and Uniform Packaging and Labeling Regulation as passed by the National Conference on Weights and Measures and printed in National Bureau of Standards Handbook 130.

2. Specify method of sale for certain consumer commodities. The method of sale is compatible with the Uniform Method of Sale Regulation as adopted by the National Conference on Weights and Measures and printed in National Bureau of Standards Handbook 130.

3. Exempt from sealing or marking and/or annual retesting of certain weights and measures.

4. Establish guidelines for the accurate weighing of

producers' tobacco to the nearest one pound at auction and to require that certain sale documents be kept for a period of three years.

5. Require that certain bulk commodities be sold by weight and that a delivery ticket be given to the purchaser.

Purpose: To prescribe how consumer and nonconsumer packages must be labeled to enhance value comparison and reduce fraud and misrepresentation; to prescribe method of sale for certain consumer commodities; to exempt from annual sealing or marking and/or annual retesting of certain weights and measures; to establish guidelines for the accurate weighing of producers' tobacco to the nearest one pound at auction and to require that certain sale documents be kept for a period of three years; and to require that certain bulk commodities be sold by weight and that a delivery ticket be given to the purchaser.

Impact: This regulation affects the following firms or persons doing business in Virginia: (i) packers and processors preparing prepackaged commodities, (ii) retailers selling bulk commodities by weight, (iii) vending machine owners or operators, (iv) railroads, (v) tobacco auction warehouses, and (vi) sellers of agricultural products or specified bulk commodities by weight.

This regulation also affects the following firms or persons doing business in Virginia: (i) sellers advertising the sale of fireplace or stove wood, (ii) manufacturers or sellers of prefabricated utility buildings or polyethylene products, (iii) packagers or installers of insulating materials, (iv) retailers or wholesalers of soft wood lumber, and (v) owners or operators filling liquified petroleum gas cylinders.

Also, the regulation affects each owner or operator of milk tanks, vehicle tanks, dry or liquid measure containers when used as a standard of measure.

Statutory Authority: §§ 3.1-926 and 3.1-943 of the Code of Virginia.

Contact: J. F. Lyles, Chief, Weights and Measures Bureau, Washington Bldg., 1100 Bank St., P. O. Box 1163, Room 402, Richmond, Va. 23209, telephone (804) 786-2476

* * * * *

Title: Rules and Regulations Governing the Virginia Animal Remedies Law. These regulations establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, criteria for storage of biologicals and specifies the methods of analysis to be used.

STATEMENT

Statement of basis: The health programs for livestock and

Calendar of Events

poultry are based on prevention and treatment of diseases. Accurate and complete labeling of animal remedies is necessary to protect the purchasers and users of animal remedies in the production of meat, milk and eggs for human consumption.

Purpose: To establish a method of determining if an animal remedy manufacturer has proper equipment and qualified personnel, criteria for storage of biologicals and specifies the methods of analysis to be used.

The health programs for livestock and poultry are based on prevention and treatment of diseases. Accurate and complete labeling of animal remedies is necessary to protect the purchasers and users of animal remedies in the production of meat, milk and eggs for human consumption.

Impact: These regulations affect all firms or persons who manufacture and offer for sale or purchase and use animal remedies in the production of meat, milk and eggs for human consumption.

Statutory Authority: § 3.1-839 of the Code of Virginia.

Contact: G. A. Pearson, Supervisor, Feed and Animal Remedies Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, P. O. Box 1163, 1100 Bank St., Room 403, Richmond, Va. 23209, telephone (804) 786-3514

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law. This regulation (i) requires the licensee to declare the conditions under which he intends to operate; (ii) requires the license to be conspicuously posted in the licensee's place of business; (iii) requires "Conditional Buyers" to provide additional information to the producer when shipment is rejected; (iv) requires proper accounting for receipt and delivery of products; (v) requires all contracts be filed with the Department of Agriculture and Consumer Services; and (vi) prescribes rules for filing complaints of violations of §§ 3 and 4 of the regulation.

STATEMENT

Basis: During the early 1960's, it was determined that some Virginia produce growers were not receiving proper accounting of and prompt payment for produce sold to produce dealers located in state as well as out of state. Thus, the Virginia Agricultural Products Dealers Licensing and Bonding Law was enacted in 1966 and the Rules and Regulations for the Enforcement of the Law were adopted in April of 1977.

Preventing misunderstanding between produce growers and produce buyers is essential in maintaining a wholesome marketing atmosphere. These regulations are essential in ensuring Virginia's agricultural producers that sales of

produce will be properly accounted for and that they will receive prompt payment.

Purpose: The purpose of this regulation is to require the licensee to declare, at the time application is made for a license, the conditions under which the licensee intends to operate; require the license to be conspicuously posted in the licensee's place of business; require "Conditional Buyers" to provide additional information to the producer when shipment is rejected; require proper accounting of receipt and delivery of products; require all contracts be filed with the Department of Agriculture and Consumer Services; and prescribe rules for filing complaints of violations of §§ 3 and 4 of the regulation. Changes were made to improve sentence structure and clarity.

Impact: This regulation affects 58 (number of 1985 licensees) persons or firms purchasing Virginia agricultural produce directly from the producer and not exempted in the Dealers in Agricultural Products Law § 3.1-722.1 of the Code of Virginia.

Projected cost to regulated entities for implementation and compliance - None.

Statutory Authority: § 3.1-722.13 of the Code of Virginia.

Contact: J. Bentley Crichton, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, 1100 Bank St., Room 403, Richmond, Va. 23219, telephone (804) 786-3542

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Agricultural Liming Materials Law.

STATEMENT

Statement of basis and purpose: This regulation is essential to assure consumers that agricultural liming materials are accurately and conspicuously labeled. The regulation prescribes minimum standards and classification of liming materials by fineness; minimum calcium carbonate equivalents for Burnt Lime, Hydrated Lime, Limestone, Shells and Burnt Shells. The regulation prescribes investigational allowance and penalties for deficiencies in neutralizing value, fineness; calcium, magnesium and potash in lime potash mixtures. It establishes test methods by reference to those published in the "Book of Methods" by the Association of Official Analytical Chemist. It requires that the results of official samples be reported annually to all registrants of agricultural liming materials.

Impact: The regulation affects 62 registrants doing business in Virginia. No new burden is imposed by these regulations.

Statutory Authority: § 3.1-126.12 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Fertilizer Section,

Calendar of Events

Virginia Department of Agriculture and Consumer Services,
Division of PAIR, 1100 Bank St., Room 505, Richmond, Va.
23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for Enforcement of the
Virginia Gasoline and Motor Fuels Law.

STATEMENT

Statement of basis and purpose: This regulation is essential to ensure that all motor fuel offered for sale is accurately labeled and meets established minimum specifications. It (i) prescribes minimum specification for distillation, Reid vapor pressure, water and sediment and gum in gasoline; flash point, water and sediment, sulfur cetane, distillation and corrosion in diesel fuel; (ii) provides the requirement for registration and labeling of gasoline and diesel fuel; (iii) prescribes the regulatory action to be taken when motor fuels are found not to conform to minimum specifications and (iv) requires the publication of information filed in connection with registration and results of tests of official samples.

Impact: The regulation affect approximately 600 motor fuel registrants and 14,400 retail outlets in Virginia.

Cost to industry will be minimal since current requirements are that the kind of alcohol blended must be posted on retail pumps, this regulation requires that the percentage be added.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for the Enforcement of the
Virginia Industrial Ethanol Act.

STATEMENT

Statement of basis: This regulation is necessary to clearly define the requirements and conditions under which a permit may be issued; to (i) prescribe record keeping requirements for permittees; (ii) production reporting requirements; (iii) security measures to deter unauthorized use of equipment or removal of ethanol; to clarify denaturing requirements for industrial ethanol; to prescribe (i) warning statements for denatured ethanol; (ii) minimum size containers; (iii) conditions for transporting undenatured ethanol; and to require an indentifying mark on any distilling apparatus existing under the authority of the Virginia Industrial Ethanol Act.

Statement of purpose: This regulation is necessary to preclude the diversion of fuel alcohol to beverage use and to create a climate that will foster the growth and development of the industry.

Impact: This regulation affects 66 firms producing ethanol in Virginia. No new burden is imposed by the regulation.

Statutory Authority: § 3.1-1052 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505 Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations for Enforcement of the
Virginia Petroleum Products Franchise Act.

STATEMENT

Statement of basis: Rules and Regulations are mandated by § 59.1-21.16:2 of the Code of Virginia. The regulation is necessary to clearly define the conditions and terms under which a produce/refiner may operate a retail outlet which was operated by a franchised dealer; to establish and define the conditions and terms under which a producer/refiner may rebuild or relocate a retail outlet operated by the producer/refiner prior to July 1, 1979; and, to establish requirements for reporting locations of retail outlets.

Statement of purpose: This regulation is necessary for the enforcement of § 59.1-21.16:2 of the Code of Virginia, the Petroleum Products Franchise Act. It establishes conditions under which a producer/refiner may temporarily operate a franchised retail outlet, rebuild or relocate retail outlets and outlines the criteria for reporting the locations of retail outlets.

Impact: The regulation affects 358 producer/refiner outlets and 1,073 franchised dealers operating retail outlets in Virginia. No new burden is imposed by these regulations.

Statutory Authority: § 59.1-21.16:2 of the Code of Virginia.

Contact: W. P. Zentmeyer, Supervisor, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3511

* * * * *

Title: Rules and Regulations Relating to the Virginia
Plants and Plant Products Inspection Law.

STATEMENT

Statement of basis: Virginia is a producer of *Narcissus* plants and bulbs and vegetable transplants for shipment to

Calendar of Events

other states and countries. Some importing states and countries legally require pest-free certification of Narcissus plants, Narcissus bulbs and vegetable transplants for importation. For this reason, it is necessary to declare these articles as nursery stock and provide procedures to make them eligible for pest-free certification. No change in this portion of the regulation is necessary.

White pines are widely grown throughout Virginia as an ornamental and as an agricultural commodity for Christmas trees. White pine blister rust, Cronartium ribicola, is a destructive disease of white pines. European black currant, Ribes nigrum, serves as the alternate host to this rust and may harbor and disseminate this disease.

Inspecting a license of nurserymen at satellite retail locations by Virginia Department of Agriculture and Consumer Services personnel serves as a check for parent nursery affiliations and responsibility. However, it is not necessary for this copy to be displayed; it need only be available for inspection by field personnel when requested for verification. Therefore, the part of this regulation requiring display of a license by satellite retail stores should be repealed.

Purpose: To declare Narcissus plants, Narcissus bulbs, and vegetable transplants as nursery stock and make them eligible for certification as pest-free for export. It also prohibits the importation of European black currant plants, Ribes nigrum, the alternate host of white pine blister rusts, Cronartium ribicola. Inspecting a license of nurserymen at satellite retail locations by Virginia Department of Agriculture and Consumer Services personnel serves as a check for parent nursery affiliations and responsibility. However, it is not necessary for this copy to be displayed; it need only be available for inspection by field personnel when requested for verification. Therefore, the part of this regulation requiring display of a license by satellite retail stores should be repealed.

Impact: Section 1 affects no more than 100 nurseries having more than one sales location.

Section 2 affects 10 growers producing 15 acres of Narcissus bulbs.

Section 3 affects 3 growers producing 150 acres of vegetable transplants.

Section 4 (European Black Currant Plants) affects all persons in the state in that it prohibits anyone from importing or bringing these plants into Virginia.

Statutory Authority: § 3.1-188.25 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Virginia Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Commercial Feed Law. The regulations define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels.

STATEMENT

Statement of basis: Livestock and poultry feeding programs are based on the nutrient needs of the animal. Accurate and complete labeling of commercial feed is necessary in order to protect the purchasers and users of commercial feed in the production of meat, milk and eggs for human consumption.

Purpose: To define terms specifically applicable to the Virginia Commercial Feed Law and establish criteria for listing required information on commercial feed labels. Livestock and poultry feeding programs are based on the nutrient needs of the animal. Accurate and complete labeling of commercial feed is necessary in order to protect the purchasers and users of commercial feed in the production of meat, milk and eggs for human consumption.

Impact: These regulations affect 603 firms or persons who process or manufacture commercial feed ingredients or manufacturers and sell commercial feed and 79,000 livestock and poultry producers who purchase and use commercial feeds in the production of meat, milk and eggs for human consumption in Virginia.

Statutory Authority: § 3.1-813 of the Code of Virginia.

Contact: G. A. Pearson, Supervisor, Feed and Animal Remedies Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, P. O. Box 1163, Room 403, Richmond, Va. 23209, telephone (804) 786-3514

* * * * *

Title: Rules and Regulations for Enforcement of the Virginia Seed Law. This regulation prescribes the method of inspecting, sampling, and testing of seed; provides applicable tolerances in testing, and prescribes specifications and requirements for labeling.

STATEMENT

Statement of Basis: To ensure that all seed sold, offered for sale, exposed or advertised is truthfully labeled with information taken from a laboratory analysis of a test conducted from a representative sample of a lot. Protect agricultural land from the introduction of prohibited noxious weed seed, and inform the purchaser of seed if any restricted noxious weed seed are present and their rate of occurrence. Restrict the sale of seed that contain weed seed in excess of 1.0%. Inform the purchaser if seed have been treated and identify the treatment substance.

For these reasons it is necessary to maintain an inspection, sampling and testing program that will monitor seed that is sold in order that the purchaser of the seed and other agricultural interest will be protected.

Statement of purpose and impact: This regulation is to ensure that all seeds are truthfully labeled within tolerance of the label guarantee and meet established minimum specifications according to standard procedures of inspecting, sampling, testing and the application of tolerance. Also, to name those weed seed which are classified as prohibited noxious (no tolerance permitted) and restricted noxious with limitation as to rate of occurrence. This regulation also establishes the maximum percentage of (common) weed seed and inert matter, and the minimum germination standards of vegetable, flower and peanut seed. Changes were made to improve the sentence structure and clarify. Seven agricultural kinds were added to the existing list. The requirement for labeling the component of lawn and turf seed mixtures under the heading of fine textured and coarse kinds was deleted to conform to the requirement of the Federal Seed Act and the Recommended Uniform State Seed Law.

Impact: This regulation affects all persons in Virginia who label or purchase seed to include 58,000 farmers, 165 seed labelers, 1.1 million home owners, 30 sod producers, 240 golf courses, 800 schools, 80 colleges, 65 federal parks, 31 state parks, and other state agencies.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Contact: D. E. Brown, Supervisor, Seed Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank St., Room 505, Richmond, Va. 23219, telephone (804) 786-3797

Title: Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

STATEMENT

Statement of Basis: Preventing the artificial (long distance) spread of the gypsy moth is dependent upon regulating the movement of articles capable of transporting any life stage of the gypsy moth. For this reason, it is necessary to establish regulated (infested) areas from which articles capable of moving gypsy moth may not be moved without first being certified free of all life stages.

Purpose: To prevent the artificial spread of gypsy moth from regulated (infested) areas to nonregulated (noninfested) areas by requiring that articles capable of transporting life stages of the gypsy moth be inspected and certified free of gypsy moth.

Impact: This regulation affects any person moving regulated articles from the regulated (infested) areas into the nonregulated (noninfested) areas.

Statutory Authority: §§ 3.1-188.23 - 3.1-188.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to REPEAL the following regulations:

Title: Rules and Regulations for Enforcement of the Barberry and Black Stem Rust Quarantine.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: In order to prevent the spread of a destructive disease from certain species of barberry, mahonia and Mahoberberis plants to small grain crops, this regulation was enacted. This regulation was enacted to: (i) declare all rust-susceptible species of these plants as a public nuisance; (ii) authorize the State Entomologist to destroy all rust-susceptible species of these plants found in Virginia; (iii) prohibit the movement, planting, and/or growing of any rust-susceptible species of these plants; and (iv) allow movement, planting and/or growing of nonsusceptible species of these plants, if labeled properly. This was determined to be the only means of control, since no practical chemical controls were available. Also, this regulation was enacted to enable VDAS to cooperate with the USDA quarantine for the same organism. However, the USDA has not enforced their quarantine for several years, like Virginia, since rust-susceptible varieties of these plants are no longer commercially available. This lack of availability has resulted in minimal hazard disease spread to grain crops in the Commonwealth. Therefore, this regulation is recommended for repeal.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-288.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

Title: Rules and Regulations for Enforcement of the Noxious Weed Law.

STATEMENT

Brief statement of subject, substance, issues, basis and

Calendar of Events

purpose: During the past 10 years it has been demonstrated that the weed (Salpichroa organifolia) can be effectively controlled by readily available herbicides, but eradication is not likely since the plant reproduces vegetatively as well as by seed. Also, this weed has not become a serious problem in Virginia over the last 10 years. The need for the regulation has passed and the regulation should be repealed.

Statutory Authority: §§ 3.1-296.13 - 3.1-296.14 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Bureau of Plant Protection and Pesticide Regulation, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * *

Title: Rules and Regulations Providing for the White Pine Blister Rust Quarantine.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: Many years ago, several species of gooseberries and currant plants that are capable of spreading the disease white pine blister rust, were shipped to Virginia and other states. During this period of time, it was felt that the best way to protect commercial stands of which pines in certain areas of the state would be to restrict the movement into those areas of certain disease susceptible varieties of currants and gooseberries. Therefore, 33 counties were described as having the largest stands of white pines, and would be protected from the entrance of disease carrying currants and gooseberries. Over the years, requests for shipment into these protected counties have dwindled. Also, commercial nurseries stopped shipping varieties of the plants capable of spreading white pine blister rust. The regulation is no longer necessary to protect commercial stands of white pines and should be repealed. The complete prohibition of European black currants (the most destructive variety) section of this quarantine is recommended to be added to the regulations under the Virginia Plants and Plant Products Inspection Law under this review process.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-288.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3515

* * * * *

Title: Rules and Regulations for Enforcement of the Tomato Plant Disease Quarantine.

STATEMENT

Brief statement of subject, substance, issues, basis and purpose: In the past, commercial tomato growers in eight Virginia counties have purchased transplants from Southern states infected with several diseases. This regulation was adopted to assure a continuous supply of healthy tomato transplants for planting. The regulation was designed to: (i) prohibit the movement of plants into or between the protected eight counties unless such plants were accompanied by a certificate of inspection; (ii) allow plants accompanied by an approved certificate to move into or between the counties; (iii) allow tomato growers in the protected counties to call for an inspection by VDACS personnel on any imported plants; (iv) assure that all plants moving into or between the protected counties were subject to inspection by VDACS personnel; and (v) allow plants not accompanied by a valid certificate or found to be infected with any of the listed diseases to be stop sale, seized, destroyed, or returned to the shipper.

Over the last several years, the primary exporting states have employed a good transplant inspection program to assure relative freedom from disease. Also, commercial tomato growers in Virginia have not called for inspection of tomato plants suspected of having a disease problem for two years. In addition, the Virginia Plant and Plant Products Inspection Law would allow VDACS to take action to rectify any disease problems detected on tomato transplants. This regulation has served its purpose and is recommended for repeal.

Statutory Authority: §§ 3.1-188.21, 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Contact: Donald H. Kludy, State Entomologist and Chief, Virginia Department of Agriculture and Consumer Services, Bureau of Plant Protection and Pesticide Regulation, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-3515

STATE AIR POLLUTION CONTROL BOARD

February 3, 1986 - 9 a.m. - Open Meeting
Division of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

This is a regular meeting of the board.

Contact: Dick Stone, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5478

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

February 10-11, 1986 - 9:30 a.m. - Open Meeting
February 25, 1986 - 9:30 a.m. - Open Meeting

Calendar of Events

† **March 11, 1986 - 9:30 a.m.** – Open Meeting
† **March 25, 1986 - 9:30 a.m.** – Open Meeting
2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Larry E. Gilman, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0616

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND CERTIFIED LANDSCAPE ARCHITECTS

† **Friday, March 14, 1986 - 9 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the November 15 meeting; (ii) review investigative cases; (iii) draft proposed regulations; and (iv) discuss the LGR report.

Board of Architects

† **March 7, 1986 - 9 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting (i) to approve the minutes of the December 13 meeting; (ii) review investigative cases; (iii) draft proposed regulations; and (iv) to review applications.

Board of Certified Landscape Architects

† **March 19, 1986 - 9 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve the minutes of the October 8 meeting; (ii) review of applications; and (iii) probable discussion of regulations.

Board of Land Surveyors

† **April 12, 1986 - 9 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to grade examinations.

Board of Professional Engineers

† **February 19, 1986 - 9 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve the minutes of the January 29 meeting; (ii) review investigative cases; (iii) review applications; (iv) oral examinations; and (v) drafting of regulations.

Contact: Johnsie Williams, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Room 507, Richmond, Va. 23230-4917, telephone (804) 257-8506

VIRGINIA AUCTIONEERS BOARD

March 7, 1986 - 10 a.m. – Public Hearing
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **Rules and Regulations of the Virginia Auctioneers Board.** The amendments provide for the establishment of a program of certification for all registered auctioneers. The proposed amendments intend to establish criteria for certification of auctioneers in accordance with applicable statutes.

STATEMENT

Basis and Purpose: Pursuant to §§ 54-824.9:2 and 54-824.9:3 of the Code of Virginia, the Virginia Auctioneers Board proposes to adopt rules and regulations to implement the enabling statute of the board, which is to certify and regulate any registered individual wishing to hold himself out as a Certified Virginia Auctioneer in the Commonwealth and to otherwise discharge the duties imposed on the board by § 54-1.28 of Chapter 1.1 of Title 54, Code of Virginia. The objective of these proposed amendments is to assure that auctioneers have met the desired competence through the least burdensome and most cost effective method available.

Impact: A. The amendments will affect approximately 780 registered auctioneers who may be eligible for certification. It is estimated that approximately 110 auctioneers per year would apply for examination and certification. In the initial year of the program, most applicants would be appending under the "grandfather" clause and would not be required to be examined.

B. The projected cost of implementation to the regulated entities is estimated at \$120 per applicant based on the expected cost of \$12,000 per year for administration, which

Calendar of Events

includes the cost of examination and certification. The cost for implementation of the amendments may be passed on to the consumer by auctioneers in the form of increased fees. The cost of compliance to the regulated entities includes the fees for application and for attendance at a school of auctioneering to qualify for the examination. Based on the average cost of auctioneer schools, transportation, loss of business time and examination fees, the average expense per applicant is \$1,720.

C. The agency expects that the cost for administration of the proposed amendments will be \$12,000 per year. Revenue from examination and reexamination fees for \$50 is estimated at \$5,500 per year and \$6,500 per year will be generated by the \$75 certification fee. No additional personnel or equipment will be necessary to implement the proposed amendments.

D. Funds for implementing the amendments will come from part of the special dedicated revenue appropriated to the Department of Commerce. The proposed fee schedule is as follows:

Examination fee \$50

Reexamination fee \$50

Certification fee \$75

Statutory Authority: §§ 54-824.9:2 and 54-824.9:3 of the Code of Virginia.

Written comments may be submitted until February 6, 1986.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508 (toll-free number 1-800-552-3016)

VIRGINIA BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

† February 18, 1986 - 10 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.
(Location accessible to handicapped.)

A board meeting to consider (i) reinstatement of temporary permits; (ii) committee report on transfer of board to Department of Health Regulatory Boards; (iii) update on expenditures, revenue and fees; and (iv) action on complaints.

Contact: Geralde W. Morgan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8554

BOARD OF BARBER EXAMINERS

† March 24, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review applications for reinstatement of license; (ii) review investigative reports of complaints and determine disposition; and to (iii) consider correspondence pertinent to the operation of the board.

Contact: Board of Barber Examiners, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

February 4, 1986 - 10 a.m. - Open Meeting
Regency Square Shopping Center, 1420 Parham Road, The Community Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The council will receive reports from the State Boards of the Departments of Corrections, Education and Social Services; plan future council activities and initiate the appropriate response to the training of hearing officers pursuant to § 2.1-703 D of the Code of Virginia.

NOTE: The meeting previously scheduled for Tuesday, January 7, 1986, is hereby rescheduled to February 4, 1986, to the time and location specified above.

Contact: Nancy Bockes, P.O. Box 434, Independence, Va., 23348, telephone (703) 773-2452

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

† February 14, 1986 - 8:30 a.m. - Open Meeting
Koger Executive Center, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room A, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to (i) review the progress report on revised core standards; (ii) nominations to advisory committee; (iii) monitor strategies for residential facilities; and (iv) to review the progress report on Core Training Plan.

Contact: Barry Craig, 8007 Discovery Dr., Blair Bldg.,

Calendar of Events

Richmond, Va. 23229-8699, telephone (804) 281-9025

telephone (804) 257-6274

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Division of Historic Landmarks State Review Board

† February 18, 1986 - 10 a.m. - Open Meeting
221 Governor Street, Richmond, Virginia 23219

A meeting to consider the addition of the following properties to the Virginia Landmarks Register and their nomination to the National Register of Historic Places:

Boulevard Historic District, Richmond (city);
Fan Area Historic District, Extension, Richmond (city);
Maple Hall, Rockbridge County;
Woodstock Hall Tavern, Albemarle County.

† February 18, 1986 - 2 p.m. - Open Meeting
221 Governor Street, Richmond, Virginia 23219

A general business meeting.

Contact: Margaret T. Peters, Information Officer, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143

STATE BOARD FOR CONTRACTORS

February 6, 1986 - 10 a.m. - Open Meeting
Southeastern Virginia Training Center, 2100 Steppington Square, Building 3, Conference Room, Chesapeake, Virginia

The board will meet to conduct a formal fact-finding hearing regarding the State Board for Contractors v. James D. Cooke.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

BOARD OF CORRECTIONS

February 12, 1986 - 10 a.m. - Open Meeting
4615 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P. O. Box 26963, Richmond, Va. 23261,

VIRGINIA BOARD OF COSMETOLOGY

† February 10, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review investigative reports of complaints and determine disposition; (ii) receive report from examination committee; and (iii) to consider general correspondence pertinent to the operation of the board.

Contact: Virginia Board of Cosmetology, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

CRIMINAL JUSTICE SERVICES BOARD

Committee on Criminal Justice Information Systems

April 2, 1986 - 9:30 a.m. - Public Hearing
Division of Motor Vehicles, 2300 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Certification of Criminal Justice Instructors**. This regulation amends existing training and certification requirements for criminal justice instructors.

STATEMENT

Basis and Purpose: The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-170 (1) and (11) of the Code of Virginia.

Those who instruct in the Commonwealth's criminal justice academies are responsible for providing a foundation for action for criminal justice officers across the state. Prior to being accepted as an instructor, these individuals should be able to demonstrate through experience and ability, a fundamental competence to provide the necessary instruction. Since only those who wish to instruct in approved training programs are subject to these regulations, they will impact less than 15% of the criminal justice officers in the Commonwealth.

Subject and Substance: The proposed amendments to the rules mandate minimum requirements for certification and recertification of criminal justice instructors.

Calendar of Events

Impact: This proposal is an amendment to existing rules. The review and proposed amendments resulted from the cyclical review process previously established by the department. Minimal fiscal impact is anticipated.

Compliance Cost: Rules pertaining to this subject matter currently exist. Some minimal compliance costs may be associated with the requirement for retraining prior to recertification. No increase in costs is anticipated relative to the changes involving initial certification.

The proposed recertification requirement calls for completion of a seminar approved by the department, to ensure that the individuals are up-to-date with the subject matter in their respective categories of certification. In many cases, this retraining will be accomplished through the existing in-service training requirement.

Implementation Costs: Implementation costs to the Department of Criminal Justice Services is not expected to exceed those costs associated with compliance with the Administrative Process Act, Executive Order No. 51, and the board's Public Participation Guidelines. No additional costs are anticipated.

Written comments may be submitted until February 28, 1986 to L. T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Mr. Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

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April 2, 1986 - 9:30 a.m. - Public Hearing
Division of Motor Vehicles, 3200 West Broad Street, Agecroft Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Courthouse and Courtroom Security Personnel and Deputy Sheriffs Designated to Serve Process.** The regulation amends existing training standards for deputy sheriffs and other law-enforcement and designated personnel to provide security for the courthouse and courtroom and serve process.

STATEMENT

Basis and Purpose: The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-170 (5 & 5a.) of the Code of Virginia. The protection of property and persons during the judicial process is a specialized function requiring certain knowledge, skills and abilities. The purpose of the proposed rules is to provide

training necessary for effective protection of the courthouse and courtroom and for the protection of the individuals upon whom process is served.

Subject and Substance: The proposed amendments to the rules mandate minimum training standards for those criminal justice personnel designated to provide courthouse and courtroom security or who serve process.

Impact: This proposal is an amendment to existing rules. The review and proposed amendments resulted from the cyclical review process previously established by the department. No fiscal impact is anticipated.

Statutory Authority: § 9-170 (5 and 5a) of the Code of Virginia.

Written comments may be submitted until February 28, 1986.

Contact: Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

VIRGINIA BOARD OF DENTISTRY

† **April 10, 1986 - 10 a.m. - Public Hearing**
Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Dentistry intends to adopt regulations entitled: **Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene.**

STATEMENT

Purpose: The purpose of these regulations is to establish the requirements for licensure as dentists and dental hygienists in Virginia, to regulate the licensure of dentists and dental hygienists and to discharge the duties required of the board by § 54-163 of the Code of Virginia in the protection of the health, safety and welfare of the citizens of the Commonwealth.

Basis: § 54-163 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 4,331 licensed dentists, 2,003 licensed dental hygienists and 29 temporary permits. The Board of Dentistry depends on fees from licensees and applicants to fulfill its statutory responsibilities. Proposed changes in fees will allow the board to meet this obligation.

Statutory Authority: § 54-163 of the Code of Virginia

Calendar of Events

Written comments may be submitted until April 4, 1986.

telephone (804) 257-8555

Contact: Nancy T. Feldman, Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0311

STATE BOARD OF EDUCATION

February 25, 1986 - 8 a.m. - Open Meeting

February 26, 1986 - 9 a.m. - Open Meeting

James Monroe Building, 101 North 14th Street, Conference Rooms C and D, 1st Floor, Richmond, Virginia. (Location accessible to handicapped.)

A regularly scheduled business meeting of the board. Business will be conducted according to items listed on the agenda which is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret N. Roberts, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2540

DEPARTMENT OF GENERAL SERVICES

State Insurance Advisory Board

† **March 14, 1986 - 9:30 a.m. - Open Meeting**

Ninth Street Office Building, 9th and Grace Streets, Conference Room of the Director of the Department of General Services, Richmond, Virginia. (Location accessible to handicapped.)

A quarterly meeting of the State Insurance Advisory Board.

Contact: Charles F. Scott, Director, Department of General Services, Office of Risk Management, 805 E. Broad St., Room 117, Richmond, Va. 23219, telephone (804) 786-5968.

VIRGINIA BOARD OF GEOLOGY

† **February 12, 1986 - 9 a.m. - Open Meeting**

Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve the minutes of November 13 meeting; (ii) review and possible drafting of regulations; (iii) review of applications; and to (iv) review examinations.

Contact: Johnsie Williams, Assistant Director, Geology Board, 3600 W. Broad St., Richmond, Va. 23230-4917,

VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

† **February 18, 1986 - 4 p.m. - Open Meeting**

† **February 19, 1986 - 9 a.m. - Open Meeting**

Howard Johnson's Richmond Hotel, 3207 North Boulevard, Richmond, Virginia. (Location accessible to handicapped.)

The following committees of the Statewide Health Coordinating Council will be meeting, Tuesday, February 18, 1986, beginning at 4:00 p.m.: Analysis and Plans Development Committee and the Evaluation Committee. The Executive Committee will begin meeting at 12:00 noon. The Statewide Health Coordinating Council will hold its regular business meeting at 9:00 a.m. on Wednesday, February 19, 1986 to conduct regular business of the council and other committee work.

Contact: Raymond O. Perry, Assistant Health Commissioner, Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6970

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 26, 1986 - 9:30 a.m. - Open Meeting

Blue Cross and Blue Shield Building, 2015 Staples Mill Road, Virginia Room, Richmond, Virginia. (Location accessible to handicapped.)

A monthly business meeting of the council for the purpose of addressing financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-6371

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

February 5, 1986 - 10 a.m. - Open Meeting

James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A monthly meeting of the council.

Contact: Grace Lessner, 101 N. 14th St., James Monroe Bldg., Richmond, Va., telephone (804) 225-2638

Calendar of Events

VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

† February 20, 1986 - 10 a.m. - Open Meeting
Virginia Department of Highways and Transportation,
Board Room, 1401 East Broad Street, Richmond, Virginia.
(Location accessible to handicapped; interpreter for deaf
provided if requested.)

A monthly meeting of the State Highway and Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Board of Commissioners

† February 18, 1986 - 9 a.m. - Open Meeting
13 South 13th Street, Richmond, Virginia (Location accessible to handicapped.)

A regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various program; (iii) review the authority's operations for the prior month; and (iv) to consider such other matters and take such other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

February 3, 1986 - 1 p.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The board's regular formal business meeting to (i) review and approve the minutes from the prior meeting; (ii) provide an opportunity for public comments; (iii) review the report of the director on the operation of the Department of Housing and

Community Development since the last board meeting; (iv) to hear reports of the committees of the board; and (v) to consider other matters as they may deem necessary. The planned agenda will be available at the above address one week prior to the date of the meeting.

Ad Hoc Advisory Committee

† March 3, 1986 - 10 a.m. - Open Meeting
† March 4, 1986 - 9 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if needed.)

The advisory committee has been appointed by the Board of Housing and Community Development to assist it in formulating recommendations to be offered at the annual meeting of The Building Officials and Code Administrators International, Inc. (BOCA), regarding 1986 proposed changes to the BOCA model codes. The requirements of the BOCA Model Building Code, Existing Structures Code, Mechanical Code, Plumbing Code, and Fire Prevention Code are referenced by the Virginia Uniform Statewide Building Code which is adopted and maintained by the board. The meeting of the advisory committee will be for the purpose of developing recommendations for approval or challenge of the recommendations developed by the BOCA Code Change Committees which were developed at meetings in January, 1986. All organizations known to be affected by the State Building Code have been invited to supply a representative to the advisory committee.

Contact: Jack A. Proctor, Administrator, Office of Uniform Building Code, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-5041

Building Codes and Standards Committee

February 3, 1986 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A regularly scheduled meeting to consider work items and issues in the area of building codes and standards and develop recommendations as deemed appropriate for review by the board.

Community Development Committee

February 3, 1986 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, Richmond, Virginia. (Location accessible to handicapped;

interpreter for deaf provided if requested.)

A regularly scheduled meeting to consider work items and issues in the area of community development and develop recommendations as deemed appropriate for review by the board.

Implementation Procedures Committee

February 3, 1986 - 12 noon - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A regularly scheduled meeting to consider work items and issues in the area of implementation procedures and develop recommendations as deemed appropriate for review by the board.

Contact: Neal J. Barber, 205 N. Fourth St., 7th Floor, Richmond, Va. 23219-1747, telephone (804) 786-1575

GOVERNOR'S ADVISORY COMMITTEE ON CHILD ABUSE AND NEGLECT

† March 7, 1986 - 10 a.m. - Open Meeting
Koger Executive Center, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room B, Richmond, Virginia (Location accessible to handicapped.)

A regular quarterly meeting.

Contact: D. Ray Sirry, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699,

VIRGINIA STATE LIBRARY BOARD

† April 7, 1986 - 10 a.m. - Public Hearing
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and to adopt regulations entitled: **Standard for Microfilming of Public Records for Archival Retention, VR 440-01-137.1**. These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming records of permanent value.

STATEMENT

Subject and Substance: Standards for the Microfilming of Public Records for Archival Retention are being rewritten

by the State Library Board and provide minimum standards for microfilming public records of archival value. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. Requirement for methylene blue testing was changed from no specified frequency to every eight hours for commercial labs.
2. The acceptable density range was increased from 1.0-1.2 to .9-1.2.
3. The resolution requirement was changed from 90 lines per millimeter to 90 lines per millimeter and resolution of the 4.0 pattern.
4. The residual thiosulfate concentration was changed from an optimum of .7 micrograms to greater than zero and less than .7 micrograms.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming public records of permanent value.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

Basis: § 42.1-82 of the Code of Virginia.

Purpose: To ensure that when records of permanent value are microfilmed the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597

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† April 7, 1986 - 10 a.m. - Public Hearing
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and to adopt regulations entitled: **Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process, VR**

Calendar of Events

440-01-137.2 These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in a procedural microphotographic process for microfilming permanent records.

STATEMENT

Subject and Substance: Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process are being rewritten by the State Library Board and provide minimum standards for microfilming deeds and other writings by a procedural microphotographic process. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The requirement for methylene blue testing by commercial labs was changed from every four hours to every eight hours.
2. The acceptable density range was changed from 1.0-1.2 to .9-1.2.
3. The resolution requirement was changed from 5.0 pattern for 16mm and the 7.1 pattern for 35mm was changed to resolution of the 5.0 pattern and 120 lines per millimeter regardless of the reduction ratio.
4. The reduction ratio is no longer specified.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming deeds and other writings by a procedural microphotographic process.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

Basis: §§ 17-60, 17-70, 42.1-82 of the Code of Virginia.

Purpose: To ensure that when deeds and other writings are recorded by a procedural microphotographic process the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

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† **April 7, 1986 - 10 a.m.** - Public Hearing
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library intends to repeal existing regulations and to adopt regulations entitled: **Minimum Standards for Instruments Recorded by a Microphotographic Process, VR 440-01-137.3.** This regulation provides minimum standards for paper size and quality inscription color and quality and document format for instruments recorded by a microphotographic process.

STATEMENT

Subject and Substance: Minimum Standards for Instruments Recorded by a Microphotographic Process applies only to instruments recorded by a microphotographic process. The standard is being repealed by the State Library Board because of the adoption of Standards for Recorded Instruments (VR 440-01-137.7) which applies to all instruments submitted for recordation.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Other pertinent information: Superseded by Standards for Recorded Instruments VR 440-01-137.7.

Contact: Louis H. Manarin, State Archivist, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

* * * * *

† **April 7, 1986 - 10 a.m.** - Public Hearing

Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and adopt regulations entitled: **Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition, VR 440-01-137.4.** This regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law chancery, and criminal cases.

STATEMENT

Subject and Substance: Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of

the Circuit Courts Prior to Disposition are being rewritten by the State Library Board and provide minimum standards for microfilming all ended records, papers or documents pertaining to law, chancery, and criminal cases. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The requirement for methylene blue testing by commercial labs was changed from every four hours to every eight hours.
2. The resolution requirement for 35mm film was changed from the 7.1 pattern to the 4.0 pattern and 90 lines per millimeter. The resolution requirement for 16mm film was changed from the 5.0 pattern to the 4.0 pattern and 90 lines per millimeter.
3. The requirement for a specific reduction ratio was removed.
4. The requirement for the background density was changed from 1.0-1.2 to .9-1.2.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law, chancery, and criminal cases.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

Basis: §§ 17-47.4 and 42.1-82 of the Code of Virginia.

Purpose: To ensure that when ended law, chancery, and criminal files are microfilmed, the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

* * * * *

† April 7, 1986 - 10 a.m. - Public Hearing

Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and adopt regulations entitled: **Standards for Computer Output Microfilm (COM) for Archival Retention, VR 440-01-137.5.** These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated of public records of permanent value.

STATEMENT

Subject and Substance: Standards for Computer Output Microfilm (COM) for Archival Retention are being rewritten by the State Library Board and provide minimum standards for microfilm of public records of permanent value produced by the computer output microfilm (COM) process. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The acceptable density range was changed from 1.0-1.2 to 1.8 or higher.
2. The acceptable residual thiosulfate concentration was changed from an optimum concentration of .7 micrograms to greater than zero and less than .7 micrograms.

Issues: 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated for records of permanent value.

2. Exclusions - The standards do not apply to computer output microfilm (COM) generated for records of nonpermanent value.

Basis: § 42.1-82. of the Code of Virginia

Purpose: To ensure that when public records of permanent value are generated by the computer output microfilm (COM) process, the microfilm on which the images are recorded and the images are archival, can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Contact: Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

Calendar of Events

COMMISSION ON LOCAL GOVERNMENT

† **March 11, 1986 - 2 p.m.** — Open Meeting
Center In The Square, 1 Market Square, Roanoke, Virginia

A regular meeting of the Commission on Local Government.

Contact: Amy L. MacMahan, Commission on Local Government, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

LONGWOOD COLLEGE

Board of Visitors

February 6-7, 1986 - 9 a.m. — Open Meeting
Longwood College, Virginia and Prince Edward Rooms, Farmville, Virginia. (Location accessible to handicapped.)

A regular quarterly meeting of the governing board.

Contact: Dr. Janet D. Greenwood, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 (SCATS 265-4211)

MARINE RESOURCES COMMISSION

† **February, 25, 1986 - 9:30 a.m.** — Open Meeting
† **March 25, 1986 - 9:30 a.m.** — Open Meeting
† **April 22, 1986 - 9:30 a.m.** — Open Meeting
2401 West Avenue, Newport News, Virginia

The Marine Resources Commission normally meets on the fourth Tuesday each month, at 9:30 a.m., at the agency office, 24th Street and West Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It hears and decides appeals made on local wetlands board decisions. Fishery Management and Conservation measures are discussed by the Commission. The Commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within 5 days.

Contact: Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

VIRGINIA STATE BOARD OF MEDICINE

† **March 13-15, 1986 - 8:30 a.m.** — Open Meeting
Radisson Hotel, Charlottesville, Virginia. (Location accessible to handicapped.)

A meeting to review reports, interview licensees and make decisions on discipline matters before the board. At 1:30 p.m. Saturday, March 15, the full board will meet in open session to conduct general board business.

Legislative Committee

February 7, 1986 - 10 a.m. — Open Meeting
Hyatt House, 6500 West Broad Street, I-64 West, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to consider legislation and regulation amendments.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., Richmond, Va. 23261, telephone (804) 786-0575

STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

† **February 26, 1986 - 10 a.m.** — Open Meeting
Chesterfield County Community Services Board, Magnolia Grange Museum House (directly across from Chesterfield Courthouse), 10020 Ironbridge Road, Chesterfield, Virginia

A regular monthly meeting. The agenda will be published February 19, and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Mental Health and Mental Retardation Secretary, Department of Mental Health and Mental Retardation Board, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Systemwide Training & Staff Development Workgroup

† **February 20, 1986 - 10 a.m.** — Open Meeting
Department of Mental Health Training Office, 203 Governor Street, Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A meeting for the review of progress on FY 1986 regional training grants; (ii) review of systemwide training needs assessment and development of priorities for FY 1987; and (iii) dissemination of application packets for FY 1987 regional training grants.

Contact: Ken Howard, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-6133

Calendar of Events

VIRGINIA DEPARTMENT OF MOTOR VEHICLES

February 7, 1986 - 10 a.m. - Public Hearing
Department of Motor Vehicles, 2300 West Broad Street,
Room 702, Richmond, Virginia. (Location accessible to
handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Motor Vehicles intends to adopt regulations entitled: **Regulations for Titling and Registering Foreign Market Vehicles.** The proposed regulations provide a formal standardized method of processing title and registration applications for foreign market vehicles imported into Virginia.

STATEMENT

Statement of basis, purpose and impact: Pursuant to §§ 46.1-26 of and 46.1-56 of the Code of Virginia, the Department of Motor Vehicles proposes new regulations.

The purpose of these regulations is to provide for a standardized formal method of processing titling and registration applications for foreign market vehicles originally manufactured outside the United States, and not manufactured in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. § 1381 et seq.) and the regulations and policies adopted pursuant to that Act.

Foreign market vehicles are being imported into Virginia and the United States by private citizens, importers, brokers and dealers. Regulations affect owners of all foreign market vehicles and the operation of such vehicles in Virginia poses a threat to the safety of the driving public if the vehicles are not modified to meet accepted U. S. safety standards. The volume of these imports is increasing.

DMV does not currently have formal, standardized policies or procedures for evaluating the safety features of those vehicles and for processing titling and registration applications for foreign market vehicles. The commissioner finds that proof of compliance with applicable federal safety standards is the best available means to ensure that such vehicles do not endanger the public health and safety, and that proof of such compliance is a reasonable prerequisite to titling and registration.

Statutory Authority: §§ 46.1-26 and 46.1-56 of the Code of Virginia

Written comments may be submitted until February 6, 1986.

Contact: Jerome L. Stein, Manager, Titles and Registration Division, Department of Motor Vehicles, P.O. Box 27412, Richmond, Va. 23269-0001, telephone (804) 257-0510

VIRGINIA STATE BOARD OF NURSING

February 12, 1986 - 1 p.m. - Public Hearing
Hotel Roanoke, Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Nursing intends to adopt regulations entitled: **Board of Nursing Regulations.**

STATEMENT

Purpose: These proposed regulations establish the requirements for nursing education programs preparing persons for licensure as registered or licensed practical nurses in Virginia, to regulate the licensure of nurses and discharge the duties required of the board by § 54-367.11 of the Code of Virginia in the protection of the health, safety and welfare of the citizens of the Commonwealth.

Basis: § 54-367.11 of the Code of Virginia.

Impact: The proposed regulations would affect approximately 70,000 registered and licensed practical nurses, 88 nursing education programs and approximately 7,000 annual applicants for licensure. The Board of Nursing depends on fees from licensees and applicants to fulfill its statutory responsibilities. Proposed changes in fees will allow the board to meet this obligation.

Written comments may be submitted until February 12, 1986.

Contact: Corinne F. Dorsey, Executive Director, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0377

VIRGINIA STATE BOARD OF OPTICIANS

February 28, 1986 - 9:30 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review applications for reinstatement of licenses; (ii) review investigative reports of complaints and determine disposition; and (iii) to consider general correspondence pertinent to the operation of the board.

Contact: Virginia State Board of Opticians, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

VIRGINIA BOARD OF OPTOMETRY

† April 16, 1986 - 10 a.m. - Public Hearing
Holiday Inn, 6351 West Broad Street, I-64 West, Richmond, Virginia. (Location accessible to handicapped.)

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Optometry intends to repeal the existing regulations and adopt regulations entitled: **VR 510-01-1: Regulations of the Virginia Board of Optometry**. The proposed regulations, a revision of existing ones, provide the standards for the practice of optometry in Virginia; state the requirements for candidates for examination and licensure as optometrists; and govern the board in the performance of its duties.

STATEMENT

Subject: The proposed regulations provide the standards for the practice of optometry in Virginia. The regulations state the requirements for licensure as an optometrist, for taking a practical examination, for renewing a license, and for obtaining continuing education. The regulations also describe acceptable professional designations for optometrists, and list conduct that is unprofessional. Additionally, fees charged by the board for examinations and licensure are stated in the regulations.

Purpose: To ensure the safety of the public in obtaining eye care.

Impact: The regulations will affect the 905 licensed optometrists in Virginia.

Basis: These regulations are issued under the authority granted by § 54-376 of the Code of Virginia.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until April 16, 1986.

Contact: Moira C. Lux, Executive Director, Virginia Board of Optometry, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0077

STATE BOARD OF PHARMACY

March 12, 1986 - 10 a.m. - Public Hearing
Holiday Inn, 6531 West Broad Street, I-64 West, Ball Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Pharmacy intends adopt regulations entitled: **Board of Pharmacy Regulations**.

STATEMENT

Subject: This proposed regulation addresses licensure requirements for pharmacists and pharmacies, drug security, recordkeeping, prescription orders and methods of dispensing of drugs in pharmacies serving various prescription drug needs.

Basis and purpose: This regulation is based on requirements set forth in The Drug Control Act and the necessity for the board to advise the pharmacist and others directly affected by the act of the latitude which the licensees may practice and stay within the requirements of law as they engage in various aspects of drug distribution.

Further, this regulation has been the subject of intense review for clarification and represents a reduction of existing regulations and a rewriting of a large numbers of the present regulations. With the exception of regulations dealing with good manufacturing practices, all regulations will be repealed and these proposals adopted.

Estimated Impact: This regulation will directly affect the same number of licensees as do the existing regulations, i. e. 1,325 pharmacies, 5,100 pharmacists, 65 drug distributors and 14,000 controlled substances registrants.

Statutory Authority: § 54-524.16 of the Code of Virginia.

Written comments may be submitted until March 12, 1986.

Contact: Jack B. Carson, Executive Director, P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0239

ADVISORY BOARD ON PHYSICAL THERAPY

† **March 14, 1986 - 1:30 p.m. - Open Meeting**
Radisson Hotel, Charlottesville, Virginia. (Location accessible to handicapped.)

A meeting to conduct general board business and respond to correspondence.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., Richmond, Va. 23261, telephone (804) 786-0575

VIRGINIA REAL ESTATE BOARD

† **February 18, 1986 - 9 a.m. - Open Meeting**
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the January 18-19 meeting; (ii) review investigative cases; (iii) and to review applications for licensure and appointments.

March 15-16, 1986 - 9 a.m. - Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to review regulations entitled (i) "Virginia Real Estate Board's Regulations; (ii) Fair

Calendar of Events

Housing Regulations; and (iii) Condominium and Time-Share Regulations."

Contact: Julio G. Del Corso, III, Assistant Director for Real Estate, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8516

VIRGINIA RESOURCES AUTHORITY

February 11, 1986 - 10 a.m. - Open Meeting

March 11, 1986 - 10 a.m. - Open Meeting

The Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to (i) approve minutes of the prior month board meeting; (ii) review the authority's operations for the prior month; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, P. O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

VIRGINIA SEED POTATO BOARD

† February 3, 1986 - 7:30 p.m. - Open Meeting

Virginia Truck and Ornamentals Research Station, Painter, Virginia. (Location accessible to handicapped.)

Annual meeting of the board to consider such matters as may be presented.

Contact: J. William Mapp, Secretary, Virginia Seed Potato Board, Box 26, Onley, Va., telephone (804) 787-3720

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† February 18, 1986 - 9 a.m. - Public Hearing

1000 Washington Building, 12th and Bank Streets, Audio Visual Room, 9th Floor, Richmond, Virginia. (Location accessible to handicapped.)

† March 18, 1986 - 9 a.m. - Public Hearing

† April 15, 1986 - 9 a.m. - Public Hearing

State Capitol, House Room 2, Richmond, Virginia. (Location accessible to handicapped.)

The authority will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of

general circulation. Prior to the public hearing, which starts at 10:00 a.m., the authority will conduct its regular business meeting.

Contact: Nic Walker, Executive Director, Virginia Small Business Financing Authority, 1000 Washington Bldg. Richmond, Va., telephone (804) 786-3791

STATE BOARD OF SOCIAL SERVICES

† February 19, 1986 - (Time to be announced) - Open Meeting

† February 20, 1986 - (Time to be announced) - Open Meeting

Department of Social Services, 8007 Discovery Drive, Blair Building, Richmond, Virginia. (Location accessible to handicapped.)

† March 19, 1986 - (Time to be announced) - Open Meeting

† March 20, 1986 - (Time to be announced) - Open Meeting

Fair Oaks Inn, 11787 Lee Jackson Highway, Fairfax, Virginia. (Location accessible to handicapped.)

A work session and formal business meeting.

Contact: Phyllis Sisk, 8007 Discovery Dr., Richmond, Va. 23229-8899, telephone (804) 281-9236

DEPARTMENT OF SOCIAL SERVICES

Human Services Information and Referral Advisory Board

† March 21, 1986 - 9:30 a.m. - Open Meeting

Koger Executive Center, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room B, Richmond, Virginia. (Location accessible to handicapped.)

A general meeting of the Information and Referral Board.

Contact: D. Ray Sirry, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699,

Division of Licensing Programs

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services, Division of Licensing Programs intends to adopt regulations entitled: **Regulations for Criminal Record Checks: Licensed Child Care Centers and Child Caring Institutions**. The purpose of this regulation is to provide guidelines and clarification for

Calendar of Events

the requirement that all persons involved in the operation of a licensed child care center or child caring institution secure a criminal record check; and to protect children in licensed facilities from persons previously convicted of specified crimes.

STATEMENT

Basis: The Department of Social Services has implemented procedures for criminal record checks because of the passage of S.B. 618 during the 1985 Session of the General Assembly. Sections 19.2-389, 63.1-199 of the Code of Virginia, were changed by adding §§ 63.1-198.1 and 63.1-198.2 and amending § 63.1-199.

This statutory change required that all compensated employees and volunteers as well as applicants/licensees of child care centers and child caring institutions secure a criminal records clearance and be issued a certificate by the Commissioner of Social Services. In consultation with the state police and the staff of the office of the Attorney General, the department devised procedures to implement the law and has been processing the required certificates since July 1, 1985.

Effective September 20, 1985, the Emergency Regulation for Criminal Record Checks, pursuant to § 9-6.14:6 of the Code of Virginia, was approved by Governor Charles S. Robb. The department is currently operating under this regulation which became effective September 1, 1985.

The Department of Social Services, acting under the authority of § 63.1-202 of the Code of Virginia, is authorized to promulgate regulations.

Purpose: The basic intent of the statute is to protect children in licensed child care centers and child caring institutions from predatory persons already convicted of crimes against children.

Impact: A. Regulated entities as of November 1, 1985, include 761 licensed child care centers and 36 licensed child caring institutions. The following is a breakdown of the total licensed capacity:

761 Child Care Centers	58,241 Children
36 Child Caring Institutions	918 Children
TOTAL	59,159

B. The approximate number of individuals requiring criminal record checks during the period of one year was estimated on the required staffing in the current child care center and child caring institution standards with some consideration of staff turnover and volunteers. The initial estimate was 10,000 individuals but as of November 25, 1985, over 11,000 record checks have been received. Therefore, the estimated total for one year has been revised to approximately 15,000.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until February 24, 1986.

Contact: Sheila B. Rich, Supervisor of Children and Adult Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free number 1-800-552-7091)

VIRGINIA BOARD OF SOCIAL WORK

† February 21, 1986 - 9:30 a.m. — Open Meeting
517 West Grace Street, Richmond, Virginia

A meeting to conduct general board business; (ii) review applications; and (iii) respond to correspondence.

Contact: John W. Braymer, Ph.D., Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7703

DEPARTMENT OF TAXATION

March 17, 1986 - 10 a.m. — Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-28-796.13 through VR 630-28-796.27. Virginia Cattle Assessment.** This regulation sets forth and explains the applicability of the Virginia Cattle Assessment and the procedures relating to its collection and recording.

STATEMENT

Basis: This regulation is issued under authority granted by Virginia Code § 58.1-203.

Purpose: This regulation sets forth and explains the applicability of the Virginia Cattle Assessment and the procedures relating to its collection and recording.

Issue: The 1985 General Assembly transferred the authority for collecting and recording the Virginia Cattle Assessment from the Virginia Cattle Industry Board to the Department of Taxation. This regulation specifies how the Department of Taxation will carry out its statutory responsibility.

Substance: This regulation details when the Virginia Cattle Assessment applies, who collect it and remits it to the Department of Taxation, what registration and records are required, and the penalty for failure to comply.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Calendar of Events

Written comments may be submitted until March 17, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division,
P. O. Box 6-L, Richmond, Va. 23282, telephone (804)
257-8010

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March 17, 1986 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **VR 630-2-325: Individual Income Tax: Taxable income of nonresidents and VR 630-2-332: Individual Income Tax: Credit for taxes paid to another state.**

STATEMENT

Basis: These regulations are issued under the authority granted by Virginia Code § 58.1-203.

Purpose: These regulations are being amended to conform to the change made by the 1985 General Assembly to § 58.1-332 of the Code of Virginia (Chapter 466, Senate Bill 651). This code section was amended to provide an individual income tax credit to individual shareholders of an S corporation which has paid corporation income tax to a state which does not recognize the federal S election.

Issues: The change made by the 1985 General Assembly to § 58.1-332 of the Code of Virginia (Chapter 466, Senate Bill 651) conflicts with the present regulations which were adopted September 19, 1984. The present regulations specify that no credit for corporation income taxes paid to another state by an S corporation is available to an individual taxpayer. The 1985 statutory change allows this credit to individual taxpayers.

Substance: These amended regulations specify that the credit for income taxes paid to another state is available to an individual shareholder of an S corporation which has paid income tax to a state which does not recognize the federal S election. To avoid ambiguity, an example illustrating the computation of this credit is provided. Furthermore, these regulations specify how the amount of tax paid by the S corporation shall be allocated to each of the shareholders.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until March 17, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division,
P. O. Box 6-L, Richmond, Va. 23282, telephone (804)
257-8010

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March 17, 1986 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **Retail Sales and Use Tax Regulation VR 630-10-18.1: Catalogs and other printed materials and VR 630-10-86: Printing.** These regulations set for the application of the sales and use tax to tangible personal property used or consumed by printers and to the sale of printing by such persons, including the sale of catalogs, letters, brochures, and similar printed materials.

STATEMENT

Basis: These regulations are issued under the authority granted by Virginia Code § 58.1-203.

Purpose: As revised, these regulations set forth the application of the sales and use tax to brochures, letters, reports, and similar printed materials produced for use outside the state, as well as the application of the tax to the production and sale of printing in general.

Issues: When delivery of printing from the seller to the purchaser occurs in Virginia, the sales and use tax will apply unless specifically exempted from the tax. Virginia Code § 58.1-608.30 sets forth such an exemption for catalogs and similar printed materials used to advertise tangible personal property for sale or resale when such materials are distributed for use outside the state after storage for 12 months or less in Virginia. Effective July 1, 1986 and running through June 30, 1990, the above statute will be expanded to exempt any catalogs, letters, brochures, reports, and similar printed materials that are distributed for use outside the state after storage in Virginia for 12 months or less. By statute, the expanded exemption will not apply to administrative supplies such as letterhead, envelopes, stationery, invoices, billing forms, payroll forms, price lists, time cards, and computer cards.

Substance: Applying the law change effective on July 1, 1986, these regulations exempt catalogs, letters, brochures, reports, and similar printed materials that will be distributed for use outside of Virginia after storage here for 12 months or less. Pursuant to the law change, these regulations state the taxability of administrative supplies. Examples of exempt printed materials and taxable administrative supplies are included in these regulations. Additionally, proposed regulation VR 630-10-86 has been revised to address the statutory interstate commerce and resale exemptions as they relate specifically to printers and to address the correct application of the tax to materials furnished to printers by customers for fabrication into finished products.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Calendar of Events

Written comments may be submitted until March 17, 1986.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

VIRGINIA BOARD OF VETERINARY MEDICINE

† April 8, 1986 - 10 a.m. - Public Hearing
Holiday Inn, 6531 West Broad Street, I-64 West, Ballroom, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Veterinary Medicine intends to repeal the existing regulations and adopt regulations entitled: **VR 645-01-1: Regulations Governing the Practice of Veterinary Medicine.** The proposed regulations, a revision of existing ones, provides the standards for the practice of veterinary medicine and surgery in Virginia and states the requirements for candidates for licensure as veterinarians and certification as animal technicians.

STATEMENT

Subject: The proposed regulations provide standards for the practice of veterinary medicine in Virginia. Requirements for the licensure of veterinarians and the certification of animal technicians are described in the regulations, which also set forth conditions for the registry and operation of animal facilities. The regulations require that animal facilities have a room reserved for surgery and access to laboratory equipment to perform certain tests. Should a veterinarian's practice be limited in scope, the regulations provide a means for the issuance of a restricted facility permit. Radiology equipment must be operated in accordance with the Virginia Department of Health's "Ionizing Radiation Rules and Regulations." The proposed regulations establish rules for the dispensing and storage of drugs. It is required that veterinary facilities maintain drug inventory records, as well as medical records on each animal treated, or client. Fees charged by the board for costs such as examinations and licensure are listed in the regulations, as are actions that constitute unprofessional conduct. The regulations contain public participation guidelines which already are in effect. The combined package is a revision of existing regulations updated to accommodate the changing nature of veterinary medicine.

Purpose: To protect animal health and to ensure the safety of the public.

Impact: The regulations will affect the 1,698 licensed veterinarians, the 369 certified animal technicians, and 436 permitted animal facilities.

Basix: These regulations are issued under authority granted by § 54-784.03 (13) of the Code of Virginia.

Statutory Authority: § 54-784.03 (13) of the Code of Virginia.

Written comments may be submitted until April 8, 1986.

Contact: Moira C. Lux, Executive Director, Virginia Board of Veterinary Medicine, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

VIRGINIA DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

† March 1, 1986 - 10:30 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: George A. Koger, Executive Assistant, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3148

VIRGINIA VOLUNTARY FORMULARY BOARD

February 11, 1986 - 10:30 a.m. - Open Meeting
Virginia Department of Health, James Madison Building, 109 Governor Street, 5th Floor, Conference Room 516A, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to review public hearing comments and drug product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

STATE WATER CONTROL BOARD

March 7, 1986 - 10 a.m. - Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia
March 12, 1986 - 2 p.m. - Public Hearing
Roanoke City Council Chambers, 215 Church Avenue, Roanoke, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **Water**

Calendar of Events

Quality Standards, § 1:11 Chlorine Standard and Policy for Surface Waters. Set enforceable instream concentration limits for chlorine in state waters.

STATEMENT

Statement, substance, issues, basis, and purpose: The Virginia Water Control Board proposes a water quality standard and policy which sets an enforceable concentration limit for total residual chlorine in freshwater and chlorine produced oxidant in saline water that will protect aquatic life. Currently we do not have an instream standard for chlorine.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until March 19, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230.

Contact: Jean W. Gregory, Water Resources Ecologist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6985

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March 10, 1986 - 7 p.m. - Public Hearing
Williamsburg/James City Council Chambers, South Henry Street, Williamsburg, Virginia

March 11, 1986 - 2 p.m. - Public Hearing
Stafford County Administrative Center, Route 1, Stafford County Board of Supervisors Room, Stafford, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled:
Regulation No. 6 - National Pollutant Discharge Elimination System (NPDES) Permit Program Subpart G - Pretreatment and Industrial User Control Program. This regulation will regulate nondomestic discharges to public owned treatment plants to prohibit interference or pass through of any material which may cause environmental harm.

STATEMENT

Subject: Subpart G, Pretreatment, of Regulation No. 6, National Pollution Discharge Elimination System Permit Amendment.

Substance: Establishes the responsibilities of the board, local governments and industry to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes of Publicly Owned Treatment Works (POTWs) or which contaminate POTW residues.

Issue: To eliminate pollutants, to reduce the amount of pollutants, or to alter the nature of pollutants in wastewater to a nonharmful state prior to discharging or introducing such pollutants into POTWs.

Basis: The regulation delineates the procedures to be followed in connection with the administration of a statewide pretreatment program. The board may be authorized under §§ 402 and 307 of the Federal Clean Water Act to administer the pretreatment program.

Purpose: To establish legal requirements for state administration of the pretreatment program and enable the implementation of National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in POTWs or which may contaminate sewage sludge.

Impact: Since the EPA has been administering the program for the last seven years and, those municipalities required by regulation to have a pretreatment program have obtained approval, there should be no appreciable impact to those municipalities, (approximately 43 in number). Twenty three municipalities are to be reevaluated for pretreatment program needs. It is estimated that approximately one-half of these will need to develop a pretreatment program. This would entail a resource and financial commitment ranging from one person plus \$5,000 per year for the smallest of these communities up to two persons and \$10,000 per year for the largest of the communities. However, the transfer of authority to administer the pretreatment program, from the EPA to the Commonwealth as a result of these regulations, will not impose any additional financial costs to Virginia communities or industries as the responsibility for implementing their program already lies with the affected municipalities and industries.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 14, 1986.

Contact: LaVern H. Corkan, Pretreatment Program Manager, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6306

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March 10, 1986 - 7 p.m. - Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **NPDES General Permit for Sewage Discharges of Less Than 1000 Gallons Per Day.** This presents the authority and requirements for General Permits which authorize sewage discharges to state waters from treatment works that discharge less than 1000 gallons per day.

STATEMENT

Basis: Under the authority §§ 62.1-44.15(5) and 62.1-44.15(10) of the Code of Virginia, the State Water

Calendar of Events

Control Board (SWCB) is authorized to issue permits for the discharge of treated sewage into state waters and to adopt such regulations as it deems necessary to enforce water quality management in the Commonwealth.

Section 402 of the Clean Water Act authorizes the Commonwealth to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the law. The Commonwealth of Virginia received such authorization in 1975 with SWCB Regulation No. 6 being the specific governing authorization.

Federal NPDES regulations (40 CFR 122.28) allow states with NPDES authorization to issue general permits written to cover a category of discharges within a geographic area. Regulation No. 6, provides the SWCB with the authority to issue and enforce these permits.

Substance and Purpose of Proposed Regulation: It is the intent of the SWCB to adopt a regulation for an NPDES General Permit for Sewage Discharges of less than 1,000 gallons per day (GPD). At the present time, all persons wishing to discharge wastewater from point sources to the waters of the Commonwealth must obtain individual NPDES permits. Some of these discharges are from minor point sources, such as sewage discharges of less than 1,000 GPD, which have little potential to adversely impact the receiving waters. Issuance of general NPDES permits will reduce the review, inspection, and administrative burden necessitated by individual permits but not warranted by the discharge in consideration. Since permit conditions applicable to individual permits, such as monitoring and reporting requirements, will remain in place, the Commonwealth will retain a record of all discharges authorized under general NPDES permits.

Issue: By adoption of this proposed regulation the SWCB hopes to reduce unwarranted administrative burdens placed upon itself and owners of sewage discharges of less than 1,000 GPD. As a result of this endeavor, the SWCB will lose some comprehensive regulatory review of these discharges, but shall still retain a certain regulatory posture.

It is felt that resources not spent on administration of individual NPDES permits for these minor, less significant discharges can be redirected to more critical areas of concern.

This better utilization of resources outweighs the minor loss of regulatory overview for these less significant discharges.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 20, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Martin G. Ferguson, Program Director, Office of

Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6984

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March 10, 1986 - 7 p.m. — Public Hearing
Williamsburg/James City County Council Chambers, South Henry Street, Williamsburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **NPDES General Permit for Groundwater Heat Pumps**. This regulation presents the authority and requirements for General Permits which authorize discharges from groundwater heat pumps.

STATEMENT

Basis: Under the authority of §§ 62.1-44.15(5) and 62.1-44.15(10) of the Code of Virginia, the State Water Control Board (SWCB) is authorized to issue permits for the discharge of treated sewage into state waters and to adopt any such regulations as it deems necessary to enforce water quality management in the Commonwealth of Virginia.

Section 402 of the Clean Water Act allows the Commonwealth authorization to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the law. The Commonwealth of Virginia received such authorization in 1975 with Regulation No. 6 being the specific governing regulation.

Federal NPDES regulations (40 CFR 122.28) allow states with NPDES authorization to issue general permits written to cover a category of discharges within a geographic area. Regulation No. 6 provides the SWCB with the authority to issue and enforce these permits.

Substance and Purpose: It is the intent of the SWCB to adopt a regulation for an NPDES General Permit for groundwater heat pumps. At the present time, all persons wishing to discharge wastewater from point sources to the waters of the Commonwealth must obtain individual NPDES permits. Some of these discharges are from minor point sources such as groundwater heat pumps which have little potential to adversely impact the receiving waters. Issuance of general NPDES permits will reduce the review, inspection, and administrative burden necessitated by individual permits but not warranted by the discharge in consideration. Since permit conditions applicable to individual permits, such as monitoring and reporting requirements, will remain in place, the state will retain a record of all discharges authorized under general NPDES permits.

Issue: By adoption of this proposed regulation the SWCB hopes to reduce unwarranted administrative burdens placed upon itself and owners of groundwater heat pumps.

As a result of this endeavor, the SWCB will lose some comprehensive regulatory review of these discharges, but shall still retain a certain regulatory posture.

It is felt that resources not spent on administration of individual NPDES permits for these minor, less significant discharges can be redirected to more critical areas of concern.

This better utilization of resources outweighs the minor loss of regulatory overview for these less significant discharges.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until March 10, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Martin Ferguson, Program Director, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6984

March 12, 1986 - 2 p.m. - Public Hearing
Roanoke City Council Chambers, 215 Church Avenue,
Roanoke, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **Water Quality Standard in the Basin and Section Description Tables, Skidmore Fork (Rockingham County), Section 5D, Shenandoah River Subbasin.** With this amendment Skidmore Fork would be changed from Class IV Mountainous Zone Waters to Class VI Natural Trout Waters.

STATEMENT

Basis: Section 62.1-44.15(3) of the Code of Virginia authorizes the board to establish Water Quality Standards and Policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such standards or policies established. Such standards shall be adopted only after a hearing is held and the board takes into consideration the economic and social costs and benefits which can reasonably be expected to be obtained as a result of the standards as adopted, modified, amended, or cancelled.

Section 303 of the Federal Clean Water Act requires states to adopt water quality standards and to have them approved by the Environmental Protection Agency (EPA).

Additionally, both state and federal law require triennial reviews of water quality standards, with adoption of new

standards, amendments to existing standards, as appropriate. If EPA determines that Virginia's water quality standards are not appropriate, it will promulgate its own federal water quality standard for Virginia. This standards amendment was a result of EPA's review of Virginia's 1984 triennial review process.

Purpose: The purpose of this proposed amendment is to restore the natural trout water designation to Skidmore Fork (Rockingham County), Section 5D, in the Shenandoah River Subbasin.

Skidmore Fork (Rockingham County) in the Shenandoah River Subbasin was declassified from Class VI Natural Trout Waters to Class IV Mountainous Zone Waters at the triennial review of the Water Quality Standards in August, 1984. This declassification should not have been initiated since there were no data submitted to support this cancellation.

EPA indicated to us in a letter dated March 22, 1985, that they could not approve this revision. They also state that their approval of the revised Virginia Water Quality Standards was contingent upon reestablishing the natural trout water designation on Skidmore Fork.

The commission of Game and Inland Fisheries, in a letter dated July 24, 1985, further confirmed the existence of a population of trout in Skidmore Fork.

Impact: The board does not believe any immediate costs will occur if this amendment is restored to its original natural trout water designation. This is primarily because the change was meant to protect existing conditions and no discharger should have to provide additional treatment to meet new requirements. For example, the streams adopted for designation as trout streams currently support populations of natural trout.

Statutory Authority: § 62.1-44.15(3)a of the Code of Virginia.

Written comments may be submitted until March 19, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Mary M. Reid, Pollution Control Specialist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6699

March 12, 1986 - 2 p.m. - Public Hearing
Roanoke City Council Chambers, 215 Church Avenue,
Roanoke, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **§ 1.10 B.2 of the Water Quality Standard and Policy for Mercury in Freshwater.** This amendment substitutes

Calendar of Events

the word "methyl" mercury for the word "total" mercury.

STATEMENT

Subject, substance, issues, basis and purpose: The Virginia Water Control Board proposes to amend the agency's water quality standard for mercury. This amendment will require reporting levels of mercury in edible fish tissue in freshwater as methyl rather than total mercury.

The Food and Drug Administration's (FDA) change in the action level for mercury in fish tissue from total to methyl mercury concentration necessitates amendment to § 1.10 B.2 of the Water Quality Standards since the Health Department will require reporting in methyl mercury.

Statutory Authority: § 62.1-44.15(3)a of the Code of Virginia.

Written comments may be submitted until March 19, 1986, to Cindy Berndt, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Mary M. Reid, Pollution Control Specialist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6699

THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

† February 20, 1986 - 5 p.m. - Open Meeting
† February 21-22, 1986 - 8 a.m. - Open Meeting
† March 20, 1986 - 5 p.m. - Open Meeting
† March 21-22, 1986 - 8 a.m. - Open Meeting
† April 24, 1986 - 5 p.m. - Open Meeting
† April 25-26, 1986 - 8 a.m. - Open Meeting
Alumni House, 500 Richmond Road, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to review quarterly operations of the college, and Richard Bland College, to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individual and/or organizations who request it.

Contact: Office of University Relations, James Blair Hall, Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

COUNCIL ON THE STATUS OF WOMEN

† February 12, 1986 - 9:30 a.m. - Open Meeting
Old City Hall, 1001 E. Broad Street, AT&T Communications Conference Room, 1st Floor, Richmond, Virginia

A regular meeting to conduct general business and to receive reports from the committees of the council.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9200

LEGISLATIVE

Notice To Subscribers

Legislative meetings held during the session of the General Assembly are exempted from publication in the Virginia Register of Regulations. Call Legislative Information for information on standing committee meetings. Telephone Number (804) 786-6530

CHRONOLOGICAL LIST

OPEN MEETINGS

February 3

Air Pollution Control Board, State
Housing and Community Development, Board of
- Building Codes and Standards Committee
- Community Development Committee
- Implementation Procedures Committee
Seed Potato Board, Virginia

February 4

Children's Facilities, Interdepartmental Council
on Rate-Setting for

February 5

Higher Education for Virginia, State Council of

February 6

Contractors, State Board of
Longwood College, Board of Visitors

February 7

Longwood College, Board of Visitors
Medicine, Virginia State Board of
- Legislative Committee

Calendar of Events

February 10

Alcoholic Beverage Control Board, Virginia
Cosmetology, Virginia Board of

February 11

Alcoholic Beverage Control Board, Virginia
Resources Authority, Virginia
Voluntary Formulary Board, Virginia

February 12

Corrections, Board of
Geology, Virginia Board of
Women, Council on the Status of

February 14

Children Residential Facilities, Coordinating Committee
for Interdepartmental Licensure and Certification of

February 18

Audiology and Speech Pathology, Virginia Board
of Examiners
Conservation and Historic Resources, Department of
- Virginia Historic Landmarks Board
- Division of Historic Landmarks State Review Board
Health Coordinating Council, Virginia Statewide
Housing Development Authority, Virginia
- Board of Commissioners
Real Estate Board, Virginia

February 19

Architects, Professional Engineers, Land Surveyors,
and Certified Landscape Architects
- Board of Professional Engineers
Health Coordinating Council, Virginia Statewide
Social Services, Board of

February 20

Highways and Transportation, Virginia Department of
Mental Health and Mental Retardation, Department of
- Systemwide Training and Staff Development
Workgroup
Social Services, Board of
The College of William and Mary, Board of Visitors

February 21

Social Work, Board of
The College of William and Mary, Board of Visitors

February 22

The College of William and Mary, Board of Visitors

February 25

Alcoholic Beverage Control Board, Virginia
Education, Board of
Marine Resources Commission

February 26

Education, State Board of
Health Services Cost Review Council, Virginia
Mental Health and Mental Retardation, Board of

February 28

Opticians, Virginia State Board of

March 1

Visually Handicapped, Department for the

March 3

Housing and Community Development, Board of
- Ad Hoc Advisory Committee

March 4

Housing and Community Development, Board of
- Ad Hoc Advisory Committee

March 7

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
- Board of Architects
Governors's Advisory Committee on Child Abuse and
Neglect

March 11

Alcoholic Beverage Control Board, Virginia
Local Government, Commission on
Resources Authority, Virginia

March 13

Medicine, Virginia State Board of

March 14

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
General Services, Department of
- State Insurance Advisory Board
Medicine, Virginia State Board of
Physical Therapy, Advisory Board on

March 15

Medicine, Virginia State Board of
Real Estate Board, Virginia

March 16

Real Estate Board, Virginia

March 19

Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
- Board of Certified Landscape Architects
Social Services, Board of

March 20

Social Services, State Board
The College of William and Mary Board of Visitors

March 21

Social Services, Department of
- Human Services Information and Referral Advisory
Board
The College of William and Mary, Board of Visitors

Calendar of Events

March 22
The College of William and Mary, Board of Visitors

March 24
Barbers Examiners, Board of

March 25
Alcoholic Beverage Control Board, Virginia
Marine Resources Commission

April 12
Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
- Board of Land Surveyors

April 22
The College of William and Mary, Board of Visitors

April 24
The College of William and Mary, Board of Visitors

April 25
The College of William and Mary, Board of Visitors

April 26
The College of William and Mary, Board of Visitors

March 18
Virginia Small Business Financing Authority

April 2
Criminal Justice Services Board

April 7
Library Board, Virginia State

April 8
Veterinary Medicine, Virginia Board of

April 10
Dentistry, Virginia Board of

April 15
Virginia Small Business Financing Authority

April 16
Optometry, Virginia Board of

PUBLIC HEARINGS

February 7
Motor Vehicles, Department of

February 18
Virginia Small Business Financing Authority

February 25
Agriculture and Consumer Services, Department of

February 26
Agriculture and Consumer Services, Department of

March 7
Commerce, Department of
Water Control Board, State

March 10
Water Control Board, State

March 11
Water Control Board, State

March 12
Pharmacy, State Board of
Water Control Board, State

March 17
Taxation, Department of